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REPORT AND DESPATCHES

OF

THE EARL OF DURHAM,

ON

BRITISH NORTH AMERICA.

CHARLES WOOD, PRINTER,
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THE REPORT

AND

DESPATCHES

OF

THE EARL OF DURHAM,

HER MAJESTY'S HIGH COMMISSIONER

AND

GOVERNOR-GENERAL

OF

BRITISH NORTH AMERICA.

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REPORT.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

May it please Your Majesty,

Your Majesty, in entrusting me with the Government of the Province of Lower Canada, during the critical period of the suspension of its constitution, was pleased, at the same time, to impose on me a task of equal difficulty, and of far more permanent importance, by appointing me "High Commissioner for the adjustment of certain important questions depending in the Provinces of Lower and Upper Canada, respecting the form and future Government of the said Provinces." To enable me to discharge this duty with the greater efficiency, I was invested, not only with the title, but with the actual functions of Governor General of all Your Majesty's North American Provinces; and my instructions restricted my authority by none of those limitations that had, in fact, deprived preceding Governors of Lower Canada of all control over the other Provinces, which, nevertheless, it had been the practice to render nominally subordinate to them. It was in addition, therefore, to the exclusive management of the administrative business of an extensive and disturbed Province, to the legislative duties that were accumulated on me during the abeyance of its representative government, and to the constant communications which I was compelled to maintain, not only with the Lieutenant-Governors, but also with individual inhabitants of the other five Provinces, that I had to search into the nature and extent of the questions, of which the adjustment is requisite for the tranquillity of the Canadas; to set on foot various and extensive inquiries into the institutions and administration

of those Provinces; and to devise such reforms in the system of their government as might repair the mischief which had already been done, and lay the foundations of order, tranquillity, and improvement.

The task of providing for the adjustment of questions affecting the very "form and administration of Civil Government," was naturally limited to the two Provinces, in which the settlement of such questions had been rendered matter of urgent necessity, by the events that had in one seriously endangered, and in the other actually suspended, the working of the existing constitution. But though the necessity only reached thus far, the extension of my authority over all the British Provinces in North America, for the declared purpose of enabling me more effectually to adjust the constitutional questions then at issue in two of them, together with the specific instructions contained in Despatches from the Secretary of State, brought under my view the character and influence of the institutions established in all. I found in all these Provinces a form of government so nearly the same—institutions generally so similar, and occasionally so connected—and interests, feelings, and habits so much in common, that it was obvious, at the first glance, that my conclusions would be formed without a proper use of the materials at my disposal, unless my inquiries were as extended as my power of making them. How inseparably connected I found the interests of Your Majesty's Provinces in North America,—to what degree I met with common disorders, requiring common remedies,—is an important topic, which it will be my duty to discuss very fully before closing this Report. My object at present is merely to explain the extent of the task imposed on me, and to point out the fact, that an inquiry originally directed only to two, has necessarily been extended over all Your Majesty's Provinces in North America.

While I found the field of inquiry thus large, and every day's experience and reflection impressed more deeply on my mind the importance of the decision which it would be my duty to suggest, it became equally clear that that decision, to be of any avail, must be prompt and final. I needed no

personal observation to convince me of this; for the evils I had it in charge to remedy, are evils which no civilized community can long continue to bear. There is no class or section of your Majesty's subjects in either of the Canadas, that does not suffer from both the existing disorder and the doubt which hangs over the future form and policy of the Government. While the present state of things is allowed to last, the actual inhabitants of these Provinces have no security for person or property, no enjoyment of what they possess, no stimulus to industry. The development of the vast resources of these extensive territories is arrested; and the population, which should be attracted to fill and fertilize them, is directed into foreign states. Every day during which a final and stable settlement is delayed, the condition of the Colonies becomes worse, the minds of men more exasperated, and the success of any scheme of adjustment more precarious.

I was aware of the necessity of promptitude in my decision on the most important of the questions committed to me at a very early period after my acceptance of the mission which Your Majesty was pleased to confide to me. Before leaving England, I assured Your Majesty's Ministers that the plan which I should suggest for the future government of the Canadas, should be in readiness by the commencement of the ensuing Session; and, though I had made provision that, under any circumstances, the measures which I might suggest should be explained and supported in Parliament by some person who would have had a share in the preparation of them, I added, that it was not improbable that I might deem it my paramount duty towards the Provinces entrusted to me to attend in my place in the House of Lords, for the purpose of explaining my own views, and supporting my own recommendations. My resignation of the office of Governor-General has, therefore, in nowise precipitated my suggestion of the plan which appears to me best calculated to settle the future form and policy of government in the Canadas. It has prevented, certainly, my completing some inquiries which I had instituted, with a view of effecting practical reforms of essential, but still of subordinate importance. But with the

chief of my duties as High Commissioner, that of suggesting the future constitution of these Colonies, that event has interfered in no way, except in so far as the circumstances which attended it occasioned an undue intrusion of extraneous business on the time which was left for the completion of my labours.

In truth, the administrative and legislative business which daily demanded my attention could, with difficulty, be discharged by the most unremitting labour on my own part, and on that of all those who accompanied me from England, or were employed by me in Canada.

It is in these circumstances, and under such disadvantages, that this Report has been prepared. I may not therefore present as extended and as complete a foundation as I could have wished, for those measures of vast and permanent importance which Parliament will find it necessary to adopt. But it will include the whole range of those subjects which it is essential should be brought under Your Majesty's view, and will prove that I have not rested content without fully developing the evils which lie at the root of the disorders of the North American Provinces, and at the same time suggesting remedies, which, to the best of my judgment, will provide an effectual cure.

The same reasons and the same obstacles have prevented me from annexing a greater amount of detail and illustration, which, under more favourable circumstances, it would have been incumbent on me to collect, for the purpose of rendering clear and familiar to every mind, every particular of a state of things, on which little correct, and much false information has hitherto been current in this country. I cannot, therefore, but deeply regret that such a drawback on its efficacy should have been a necessary consequence of the circumstances under which the Report has been prepared. I still hope that the materials collected by me, though not as ample as I could have desired, will, nevertheless, be found sufficient for enabling the Imperial Legislature to form a sound decision on the important interests which are involved in the result of its deliberations.

These interests are indeed of great magnitude; and on

the course which Your Majesty and Your Parliament may adopt, with respect to the North American Colonies, will depend the future destinies, not only of the million and a half of Your Majesty's subjects who at present inhabit those Provinces, but of that vast population which those ample and fertile territories are fit and destined hereafter to support. No portion of the American Continent possesses greater natural resources for the maintenance of large and flourishing communities. An almost boundless range of the richest soil still remains unsettled, and may be rendered available for the purposes of agriculture. The wealth of inexhaustible forests of the best timber in America, and of extensive regions of the most valuable minerals, have as yet been scarcely touched. Along the whole line of sea-coast, around each island, and in every river, are to be found the greatest and richest fisheries in the world. The best fuel and the most abundant water-power are available for the coarser manufactures, for which an easy and certain market will be found. Trade with other continents is favoured by the possession of a large number of safe and spacious harbours; long, deep, and numerous rivers, and vast inland seas, supply the means of easy intercourse; and the structure of the country generally affords the utmost facility for every species of communication by land. Unbounded materials of agricultural, commercial, and manufacturing industry are there: it depends upon the present decision of the Imperial Legislature to determine for whose benefit they are to be rendered available. The country which has founded and maintained these Colonies at a vast expense of blood and treasure, may justly expect its compensation in turning their unappropriated resources to the account of its own redundant population; they are the rightful patrimony of the English people, the ample appanage which God and Nature have set aside in the New World for those whose lot has assigned them but insufficient portions in the Old. Under wise and free institutions, these great advantages may yet be secured to Your Majesty's subjects; and a connection secured by the link of kindred origin and mutual benefits may continue to bind to the British Empire

the ample territories of its North American Provinces, and the large and flourishing population by which they will assuredly be filled.

LOWER CANADA.

The prominent place which the dissensions of Lower Canada had, for some years, occupied in the eyes of the Imperial Legislature, the alarming state of disorder indicated or occasioned by the recent insurrection, and the paramount necessity of my applying my earliest efforts to the re-establishment of free and regular government in that particular Colony, in which it was then wholly suspended, necessarily directed my first inquiries to the Province of which the local government was vested in my hands. The suspension of the constitution gave me an essential advantage over my predecessors in the conduct of my inquiries; it not merely relieved me from the burthen of constant discussions with the legislative bodies, but it enabled me to turn my attention from the alleged, to the real grievances of the Province; to leave on one side those matters of temporary contest, which accident, or the interests and passions of parties, had elevated into undue importance; and, without reference to the representations of the disputants, to endeavour to make myself master of the real condition of the people, and the real causes of dissatisfaction or suffering. It was also a great advantage to me in one respect, that the ordinary business of the government of the Province was combined with the functions of my inquiry. The routine of every day's administrative business brought strongly and familiarly before me the working of the institutions on which I was called to judge. The condition of the people, the system by which they were governed, were thus rendered familiar to me, and I soon became satisfied that I must search in the very composition of society, and in the fundamental institutions of government, for the causes of the constant and extensive disorder which I witnessed.

The lengthened and various discussions which had for

some years been carried on between the contending parties in the Colony, and the representations which had been circulated at home, had produced in mine, as in most minds in England, a very erroneous view of the parties at issue in Lower Canada. The quarrel, which I was sent for the purpose of healing, had been a quarrel between the executive government and the popular branch of the legislature. The latter body had, apparently, been contending for popular rights and free government. The executive government had been defending the prerogative of the Crown, and the institutions, which, in accordance with the principles of the British Constitution, had been established as checks on the unbridled exercise of popular power. Though, during the dispute, indications had been given of the existence of dissensions yet deeper and more formidable than any which arose from simply political causes, I had still, in common with most of my countrymen, imagined that the original and constant source of the evil was to be found in the defects of the political institutions of the Provinces; that a reform of the constitution, or perhaps merely the introduction of a sounder practice into the administration of the government, would remove all causes of contest and complaint. This opinion was strengthened by the well-known fact, that the political dissensions which had produced their most formidable results in this Province, had assumed a similar, though milder form, in the neighbouring Colonies; and that the tranquillity of each of the North American Provinces was subject to constant disturbance from collision between the executive and the representatives of the people. The constitutions of these Colonies, the official characters and positions of the contending parties, the avowed subjects of dispute, and the general principles asserted on each side, were so similar, that I could not but concur in the very general opinion, that the common quarrel was the result of some common defect in the almost identical institutions of these Provinces. I looked on it as a dispute analogous to those with which history and experience have made us so familiar in Europe,—a dispute between a people demanding an extension of popular privileges, on the one hand, and an executive, on the other, defending the powers

which it conceived necessary for the maintenance of order. I supposed that my principal business would be, that of determining how far each party might be in the right, or which was in the wrong; of devising some means of removing the defects which had occasioned the collision; and of restoring such a balance of the constitutional powers as might secure the free and peaceful working of the machine of government.

In a Despatch which I addressed to your Majesty's Principal Secretary of State for the Colonies on the 9th of August last, I detailed, with great minuteness, the impressions which had been produced on my mind by the state of things which existed in Lower Canada: I acknowledged, that the experience derived from my residence in the Province had completely changed my view of the relative influence of the causes which had been assigned for the existing disorders. I had not, indeed, been brought to believe that the institutions of Lower Canada were less defective than I had originally presumed them to be. From the peculiar circumstances in which I was placed, I was enabled to make such effectual observations as convinced me, that there had existed in the constitution of the Province, in the balance of political powers, in the spirit and practice of administration in every department of the Government, defects that were quite sufficient to account for a great degree of mismanagement and dissatisfaction. The same observation had also impressed on me the conviction, that, for the peculiar and disastrous dissensions of this Province, there existed a far deeper and far more efficient cause,—a cause which penetrated beneath its political institutions into its social state,—a cause which no reform of constitution or laws, that should leave the elements of society unaltered, could remove: but which must be removed, ere any success could be expected in any attempt to remedy the many evils of this unhappy Province. I expected to find a contest between a government and a people: I found two nations warring in the bosom of a single state: I found a struggle, not of principles, but of races; and I perceived that it would be idle to attempt any amelioration of laws or institutions, until we could first succeed in

terminating the deadly animosity that now separates the inhabitants of Lower Canada into the hostile divisions of French and English.

It would be vain for me to expect, that any description I can give will impress on Your Majesty such a view of the animosity of these races as my personal experience in Lower Canada has forced on me. Our happy immunity from any feelings of national hostility, renders it difficult for us to comprehend the intensity of the hatred which the difference of language, of laws, and of manners, creates between those who inhabit the same village, and are citizens of the same state. We are ready to believe that the real motive of the quarrel is something else; and that the difference of race has slightly and occasionally aggravated dissensions, which we attribute to some more usual cause. Experience of a state of society, so unhappily divided as that of Lower Canada, leads to an exactly contrary opinion. The national feud forces itself on the very senses, irresistibly and palpably, as the origin or the essence of every dispute which divides the community; we discover that dissensions, which appear to have another origin, are but forms of this constant and all-pervading quarrel; and that every contest is one of French and English in the outset, or becomes so ere it has run its course.

The political discontents, for which the vicious system of government has given too much cause, have for a long time concealed or modified the influence of the national quarrel. It has been argued, that origin can have but little effect in dividing the country, inasmuch as individuals of each race have constantly been enlisted together on the side of Government, or been found united in leading the Assembly to assail its alleged abuses; that the names of some of the prominent leaders of the rebellion mark their English, while those of some of the most unpopular supporters of the Government denote their French, origin; and that the representatives, if not of an actual majority (as has occasionally been asserted), at any rate of a large proportion of the purely English population, have been found constantly voting with the majority of the Assembly against what is

called the British party. Temporary and local causes have, no doubt, to a certain extent, produced such results. The national hostility has not assumed its permanent influence till of late years, nor has it exhibited itself everywhere at once. While it displayed itself long ago in the cities of Quebec and Montreal, where the leaders and masses of the rival races most speedily came into collision, the inhabitants of the eastern townships, who were removed from all personal contact with the French, and those of the district below Quebec, who experienced little interference from the English, continued to a very late period to entertain comparatively friendly feelings towards those of the opposite races. But this is a distinction which has unfortunately, year after year, been exhibiting itself more strongly, and diffusing itself more widely. One by one the ancient English leaders of the Assembly have fallen off from the majority, and attached themselves to the party which supported the British Government against it. Every election from the townships added to the English minority. On the other hand, year after year, in spite of the various influences which a government can exercise, and of which no people in the world are more susceptible than the French Canadians; in spite of the additional motives of prudence and patriotism which deter timid or calm men from acting with a party, obviously endangering the public tranquillity by the violence of its conduct, the number of French Canadians, on whom the Government could rely, has been narrowed by the influence of those associations which have drawn them into the ranks of their kindred. The insurrection of 1837 completed the division. Since the resort to arms, the two races have been distinctly and completely arrayed against each other. No portion of the English population was backward in taking arms in defence of the Government; with a single exception, no portion of the Canadian population was allowed to do so, even where it was asserted by some that their loyalty inclined them thereto. The exasperation thus generated has extended over the whole of each race. The most just and sensible of the English, those whose politics had always been most liberal, those who had

always advocated the most moderate policy in the provincial disputes, seem from that moment to have taken their part against the French as resolutely, if not as fiercely, as the rest of their countrymen, and to have joined in the determination never again to submit to a French majority. A few exceptions mark the existence, rather than militate against the truth of the general rule of national hostility. A few of the French, distinguished by moderate and enlarged views, still condemn the narrow national prejudices and ruinous violence of their countrymen, while they equally resist what they consider the violent and unjust pretensions of a minority, and endeavour to form a middle party between the two extremes. A large part of the Catholic clergy, a few of the principal proprietors of the seignorial families, and some of those who are influenced by ancient connections of party, support the Government against revolutionary violence. A very few persons of English origin (not more, perhaps, than fifty out of the whole number), still continue to act with the party which they originally espoused. Those who affect to form a middle party exercise no influence on the contending extremes; and those who side with the nation from which their birth distinguishes them, are regarded by their countrymen with aggravated hatred, as renegades from their race; while they obtain but little of the real affection, confidence, or esteem of those whom they have joined.

The grounds of quarrel which are commonly alleged, appear, on investigation, to have little to do with its real cause; and the inquirer, who has imagined that the public demonstrations or professions of the parties have put him in possession of their real motives and designs, is surprised to find, upon nearer observation, how much he has been deceived by the false colours under which they have been in the habit of fighting. It is not, indeed, surprising, that each party should, in this instance, have practised more than the usual frauds of language, by which factions, in every country, seek to secure the sympathy of other communities. A quarrel, based on the mere ground of national animosity, appears so revolting to the notions of good sense and charity prevalent in the civilized world, that the parties who feel

such a passion the most strongly, and indulge it the most openly, are at great pains to class themselves under any denominations but those which would correctly designate their objects and feelings. The French Canadians have attempted to shroud their hostility to the influence of English emigration, and the introduction of British institutions, under the guise of warfare against the Government and its supporters, whom they represented to be a small knot of corrupt and insolent dependents; being a majority, they have invoked the principles of popular control and democracy, and appealed with no little effect to the sympathy of liberal politicians in every quarter of the world. The English, finding their opponents in collision with the Government, have raised the cry of loyalty and attachment to British connection, and denounced the republican designs of the French, whom they designate, or rather used to designate, by the appellation of Radicals. Thus the French have been viewed as a democratic party, contending for reform; and the English as a conservative minority, protecting the menaced connection with the British Crown, and the supreme authority of the Empire. There is truth in this notion, in so far as respects the means by which each party sought to carry its own views of Government into effect. The French majority asserted the most democratic doctrines of the rights of a numerical majority. The English minority availed itself of the protection of the prerogative, and allied itself with all those of the colonial institutions which enabled the few to resist the will of the many. But when we look to the objects of each party, the analogy to our own politics seems to be lost, if not actually reversed; the French appear to have used their democratic arms for conservative purposes, rather than those of liberal and enlightened movement; and the sympathies of the friends of reform are naturally enlisted on the side of sound amelioration which the English minority in vain attempted to introduce into the antiquated laws of the Province.

Yet even on the questions which had been most recently the prominent matters of dispute between the two parties, it is difficult to believe that the hostility of the races was the

effect, and not the cause, of the pertinacity with which the desired reforms were pressed or resisted.

The English complained of the Assembly's refusal to establish Registry Offices, and to commute the feudal tenures; and yet it was among the ablest and most influential leaders of the English, that I found some of the opponents of both the proposed reforms. The leaders of the French were anxious to disclaim any hostility to these reforms themselves. Many of them represented the reluctance which the Assembly had exhibited to entertain these questions, as a result of the extraordinary influence which Mr. Papineau exercised over that body; his opposition was accounted for by some peculiar prejudices of education and professional practice, in which he was said to find little concurrence among his countrymen; it was stated, that even his influence would not have prevented these questions from being very favourably entertained by the Assembly, had it ever met again; and I received assurances of a friendly disposition towards them, which I must say were very much at variance with the reluctance which the leading men of the party showed to any co-operation with me in the attempts which I subsequently made to carry these very objects into effect. At the same time, while the leading men of the French party thus rendered themselves liable to the imputation of a timid or narrow-minded opposition to these improvements, the mass of the French population, who are immediate sufferers by the abuses of the seignorial system, exhibited, in every possible shape, their hostility to the state of things which their leaders had so obstinately maintained. There is every reason to believe, that a great number of the peasants who fought at St. Denis and St. Charles, imagined that the principal result of success would be the overthrow of tithes and feudal burthens; and in the declaration of independence which Dr. Robert Nelson issued, two of the objects of the insurrection were stated to be the abolition of feudal tenures and the establishment of Registry Offices*. When I observe these inconsistencies

* Among the few petitions, except those of mere compliment, which I received from French Canadians, were three or four for the

of conduct among the opponents and supporters of these reforms; when I consider that their attainment was prevented by means of the *censitaires*, the very persons most interested in their success, and that they were not more eagerly demanded by the wealthier of the English, than by the artisans and labourers of that race whose individual interests would hardly have derived much direct benefit from their success, I cannot but think that many, both of the supporters and of the opponents, cared less for the measures themselves, than for the handle which the agitation of them gave to their national hostility; that the Assembly resisted these changes chiefly because the English desired them; and that the eagerness with which many of the English urged them was stimulated by finding them opposed by the French.

Nor did I find the spirit which animated each party at all more coincident with the representations current in this country, than their objects appeared, when tried by English, or rather European ideas of reforming legislation. An utterly uneducated and singularly inert population, implicitly obeying leaders who ruled them by the influence of a blind confidence and narrow national prejudices, accorded very little with the resemblance which had been discovered to that high-spirited democracy which effected the American Revolution. Still less could I discover in the English population those slavish tools of a narrow official clique, or a few purse-proud merchants, which their opponents had described them as being. I have found the main body of the English population, consisting of hardy farmers and humble mechanics, composing a very independent, not very manageable, and,

abolition and commutation of the feudal tenures. But the most remarkable was one which was presented from the inhabitants of the county of Saguenay, and supported by Mr. Charles Drolet, late M.P.P. for that county. The petitioners, who represented themselves as suffering under a degree of distress of which the existence is too deplorably certain, prayed to be allowed to settle on the wild lands at the head of the Saguenay. They expressed their willingness to take the lands on any conditions which the Government might propose, but they prayed that it should not be granted on the feudal tenure.

sometimes a rather turbulent, democracy. Though constantly professing a somewhat extravagant loyalty and high prerogative doctrines, I found them very determined on maintaining in their own persons a great respect for popular rights, and singularly ready to enforce their wishes by the strongest means of constitutional pressure on the Government. Between them and the Canadians I found the strongest hostility; and that hostility was, as might be expected, most strongly developed among the humblest and rudest of the body. Between them and the small knot of officials, whose influence has been represented as so formidable, I found no sympathy whatever; and it must be said, in justice to this body of officials, who have been so much assailed as the enemies of the Canadian people, that however little I can excuse the injurious influence of that system of administration, which they were called upon to carry into execution, the members of the oldest and most powerful official families were, of all the English in the country, those in whom I generally found most sympathy with, and kindly feeling towards, the French population. I could not therefore believe that this animosity was only that subsisting between an official oligarchy and a people; and again, I was brought to a conviction that the contest, which had been represented as a contest of classes, was, in fact, a contest of races.

However unwilling we may be to attribute the disorders of a country connected with us to a cause so fatal to its tranquillity, and one which it seems so difficult to remove, no very long or laboured consideration of the relative characters and position of these races is needed for convincing us of their invincible hostility towards each other. It is scarcely possible to conceive descendants of any of the great European nations more unlike each other in character and temperament, more totally separated from each other by language, laws, and modes of life, or placed in circumstances more calculated to produce mutual misunderstanding, jealousy, and hatred. To conceive the incompatibility of the two races in Canada, it is not enough that we should picture to ourselves a community composed of equal proportions of French and English. We must bear in mind what kind of French and

English they are that are brought in contact, and in what proportions they meet.

The institutions of France, during the period of the colonization of Canada, were, perhaps, more than those of any other European nation, calculated to repress the intelligence and freedom of the great mass of the people. These institutions followed the Canadian colonist across the Atlantic. The same central, ill-organized, unimproving, and repressive despotism extended over him. Not merely was he allowed no voice in the government of his Province, or the choice of his rulers, but he was not even permitted to associate with his neighbours for the regulation of those municipal affairs which the central authority neglected under the pretext of managing. He obtained his land on a tenure singularly calculated to promote his immediate comfort, and to check his desire to better his condition; he was placed at once in a life of constant and unvarying labour, of great material comfort, and feudal dependence. The ecclesiastical authority to which he had been accustomed established its institutions around him, and the priest continued to exercise over him his ancient influence. No general provision was made for education; and, as its necessity was not appreciated, the colonist made no attempt to repair the negligence of his government. It need not surprise us, that, under such circumstances, a race of men habituated to the incessant labour of a rude and unskilled agriculture, and habitually fond of social enjoyments, congregated together in rural communities, occupying portions of the wholly unappropriated soil, sufficient to provide each family with material comforts, far beyond their ancient means, or almost their conceptions; that they made little advance beyond the first progress in comfort, which the bounty of the soil absolutely forced upon them; that under the same institutions they remained the same uninstructed, inactive, unprogressive people. Along the alluvial banks of the St. Lawrence, and its tributaries, they have cleared two or three strips of land, cultivated them in the worst method of small farming, and established a series of continuous villages, which give the country of the seignories the appearance of a never-ending street. Be-

sides the cities which were the seats of government, no towns were established; the rude manufactures of the country were, and still are, carried on in the cottage by the family of the habitant; and an insignificant proportion of the population derived their subsistence from the scarcely discernible commerce of the Province. Whatever energy existed among the population was employed in the fur trade, and the occupations of hunting, which they and their descendants have carried beyond the Rocky Mountains, and still, in great measure, monopolize in the whole valley of the Mississipi. The mass of the community exhibited in the New World the characteristics of the peasantry of Europe. Society was dense; and even the wants and the poverty which the pressure of population occasions in the Old World, became not to be wholly unknown. They clung to ancient prejudices, ancient customs, and ancient laws, not from any strong sense of their beneficial effects, but with the unreasoning tenacity of an uneducated and unprogressive people. Nor were they wanting in the virtues of a simple and industrious life, or in those which common consent attributes to the nation from which they spring. The temptations which, in other states of society, lead to offences against property, and the passions which prompt to violence, were little known among them. They are mild and kindly, frugal, industrious, and honest, very sociable, cheerful and hospitable, and distinguished for a courtesy and real politeness, which pervades every class of society. The conquest has changed them but little. The higher classes, and the inhabitants of the towns, have adopted some English customs and feelings; but the continued negligence of the British Government left the mass of the people without any of the institutions which would have elevated them in freedom and civilization. It has left them without the education and without the institutions of local self-government, that would have assimilated their character and habits, in the easiest and best way, to those of the Empire of which they became a part. They remain an old and stationary society, in a new and progressive world. In all essentials they are still French; but French in every respect dissimilar to those of

France in the present day. They resemble rather the French of the provinces under the old regime.

I cannot pass over this subject without calling particular attention to a peculiarity in the social condition of this people, of which the important bearing on the troubles of Lower Canada has never, in my opinion, been properly estimated. The circumstances of a new and unsettled country, the operation of the French laws of inheritance, and the absence of any means of accumulation, by commerce or manufactures, have produced a remarkable equality of properties and conditions. A few seignorial families possess large, though not often very valuable properties; the class entirely dependent on wages is very small; the bulk of the population is composed of the hard-working yeomanry of the country districts, commonly called *habitans*, and their connections engaged in other occupations. It is impossible to exaggerate the want of education among the habitans; no means of instruction have ever been provided for them, and they are almost universally destitute of the qualifications even of reading and writing. It came to my knowledge, that out of a great number of boys and girls assembled at the school-house door of St. Thomas, all but three admitted, on inquiry, that they could not read. Yet the children of this large parish attend school regularly, and actually make use of books. They hold the catechism book in their hand, as if they were reading, while they only repeat its contents, which they know by rote. The common assertion, however, that all classes of the Canadians are equally ignorant, is perfectly erroneous; for I know of no people among whom a larger provision exists for the higher kinds of elementary education, or among whom such education is really extended to a larger proportion of the population. The piety and benevolence of the early possessors of the country founded, in the seminaries that exist in different parts of the Province, institutions, of which the funds and activity have long been directed to the promotion of education. Seminaries and colleges have been, by these bodies, established in the cities, and in other central points. The education given in these establishments greatly resembles the kind given in the English public schools, though it is rather

more varied. It is entirely in the hands of the Catholic clergy. The number of pupils in these establishments is estimated altogether at about a thousand; and they turn out every year, as far as I could ascertain, between two and three hundred young men thus educated. Almost all of these are members of the family of some habitant, whom the possession of greater quickness than his brothers has induced the father or the curate of the parish to select and send to the seminary. These young men possessing a degree of information immeasurably superior to that of their families, are naturally averse to what they regard as descending to the humble occupations of their parents. A few become priests; but as the military and naval professions are closed against the colonist, the greater part can only find a position suited to their notions of their own qualifications in the learned professions of advocate, notary, and surgeon. As from this cause these professions are greatly overstocked, we find every village in Lower Canada filled with notaries and surgeons, with little practice to occupy their attention, and living among their own families, or at any rate among exactly the same class. Thus the persons of most education in every village belong to the same families, and the same original station in life, as the illiterate habitans whom I have described. They are connected with them by all the associations of early youth, and the ties of blood. The most perfect equality always marks their intercourse, and the superior in education is separated by no barrier of manners, or pride, or distinct interests, from the singularly ignorant peasantry by which he is surrounded. He combines, therefore, the influences of superior knowledge and social equality, and wields a power over the mass, which I do not believe that the educated class of any other portion of the world possess. To this singular state of things I attribute the extraordinary influence of the Canadian demagogues. The most uninstructed population anywhere trusted with political power, is thus placed in the hands of a small body of instructed persons, in whom it reposes the confidence which nothing but such domestic connection, and such community of interest could generate. Over the class of persons

by whom the peasantry are thus led, the Government has not acquired, or ever laboured to acquire, influence; its members have been thrown into opposition by the system of exclusion, long prevalent in the colony; and it is by their agency that the leaders of the Assembly have been enabled hitherto to move as one mass, in whatever direction they thought proper, the simple and ductile population of the country. The entire neglect of education by the Government has thus, more than any other cause, contributed to render this people ungovernable, and to invest the agitator with the power, which he wields against the laws and the public tranquillity.

Among this people, the progress of emigration has of late years introduced an English population, exhibiting the characteristics with which we are familiar, as those of the most enterprising of every class of our countrymen. The circumstances of the early colonial administration excluded the native Canadian from power, and vested all offices of trust and emolument in the hands of strangers of English origin. The highest posts in the law were confided to the same class of persons. The functionaries of the civil government, together with the officers of the army, composed a kind of privileged class, occupying the first place in the community, and excluding the higher class of the natives from society, as well as from the government of their own country. It was not till within a very few years, as was testified by persons who had seen much of the country, that this society of civil and military functionaries ceased to exhibit towards the higher order of Canadians an exclusiveness of demeanor, which was more revolting to a sensitive and polite people than the monopoly of power and profit; nor was this national favouritism discontinued, until after repeated complaints and an angry contest, which had excited passions that concessions could not allay. The races had become enemies ere a tardy justice was extorted; and even then the Government discovered a mode of distributing its patronage among the Canadians, which was quite as offensive to that people as their previous exclusion.

It was not long after the conquest, that another and larger

class of English settlers began to enter the Province. English capital was attracted to Canada by the vast quantity and valuable nature of the exportable produce of the country, and the great facilities for commerce, presented by the natural means of internal intercourse. The ancient trade of the country was conducted on a much larger and more profitable scale; and new branches of industry were explored. The active and regular habits of the English capitalist drove out of all the more profitable kinds of industry their inert and careless competitors of the French race; but in respect of the greater part (almost the whole) of the commerce and manufactures of the country, the English cannot be said to have encroached on the French; for, in fact, they created employments and profits which had not previously existed. A few of the ancient race smarted under the loss occasioned by the success of English competition; but all felt yet more acutely the gradual increase of a class of strangers in whose hands the wealth of the country appeared to centre, and whose expenditure and influence eclipsed those of the class which had previously occupied the first position in the country. Nor was the intrusion of the English limited to commercial enterprises. By degrees, large portions of land were occupied by them; nor did they confine themselves to the unsettled and distant country of the townships. The wealthy capitalist invested his money in the purchase of seignorial properties; and it is estimated, that at the present moment full half of the more valuable seignories are actually owned by English proprietors. The seignorial tenure is one so little adapted to our notions of proprietary rights, that the new seigneur, without any consciousness or intention of injustice, in many instances exercised his rights in a manner which would appear perfectly fair in this country, but which the Canadian settler reasonably regarded as oppressive. The English purchaser found an equally unexpected and just cause of complaint in that uncertainty of the laws, which rendered his possession of property precarious, and in those incidents of the tenure which rendered its alienation or improvement difficult. But an irritation, greater than that occasioned by the transfer of the large properties, was caused

by the competition of the English with the French farmer. The English farmer carried with him the experience and habits of the most improved agriculture in the world. He settled himself in the townships bordering on the seignories, and brought a fresh soil and improved cultivation to compete with the worn-out and slovenly farm of the habitant. He often took the very farm which the Canadian settler had abandoned, and, by superior management, made that a source of profit which had only impoverished his predecessor. The ascendancy which an unjust favouritism had contributed to give to the English race in the government and the legal profession, their own superior energy, skill, and capital, secured to them in every branch of industry. They have developed the resources of the country; they have constructed or improved its means of communication; they have created its internal and foreign commerce. The entire wholesale, and a large portion of the retail trade of the Province, with the most profitable and flourishing farms, are now in the hands of this numerical minority of the population.

In Lower Canada the mere working class which depends on wages, though proportionally large in comparison with that to be found in any other portion of the American continent, is, according to our ideas, very small. Competition between persons of different origin in this class, has not exhibited itself till very recently, and is, even now, almost confined to the cities. The large mass of the labouring population are French in the employ of English capitalists. The more skilled class of artizans are generally English; but in the general run of the more laborious employments, the French Canadians fully hold their ground against English rivalry. The emigration which took place a few years ago, brought in a class which entered into more direct competition with the French in some kinds of employment in the towns; but the individuals affected by this competition were not very many. I do not believe that the animosity which exists between the working classes of the two origins is the necessary result of a collision of interests, or of a jealousy of the superior success of English labour. But national prejudices naturally exercise the greatest influence over the most uneducated;

the difference of language is less easily overcome; the differences of manners and customs less easily appreciated. The labourers, whom the emigration introduced, contained a number of very ignorant, turbulent, and demoralized persons, whose conduct and manners alike revolted the well-ordered and courteous natives of the same class. The working men naturally ranged themselves on the side of the educated and wealthy of their own countrymen. When once engaged in the conflict, their passions were less restrained by education and prudence: and the national hostility now rages most fiercely between those whose interests in reality bring them the least in collision.

The two races thus distinct have been brought into the same community, under circumstances which rendered their contact inevitably productive of collision. The difference of language from the first kept them asunder. It is not anywhere a virtue of the English race to look with complacency on any manners, customs, or laws, which appear strange to them; accustomed to form a high estimate of their own superiority, they take no pains to conceal from others their contempt and intolerance of their usages. They found the French Canadians filled with an equal amount of national pride; a sensitive, but inactive pride, which disposes that people not to resent insult, but rather to keep aloof from those who would keep them under. The French could not but feel the superiority of English enterprize; they could not shut their eyes to their success in every undertaking in which they came into contact, and to the constant superiority which they were acquiring. They looked upon their rivals with alarm, with jealousy, and finally with hatred. The English repaid them with a scorn, which soon also assumed the same form of hatred. The French complained of the arrogance and injustice of the English; the English accused the French of the vices of a weak and conquered people, and charged them with meanness and perfidy. The entire mistrust which the two races have thus learned to conceive of each other's intentions, induces them to put the worst construction on the most innocent conduct; to judge every word, every act, and every intention unfairly; to

attribute the most odious designs, and reject every overture of kindness or fairness, as covering secret designs of treachery and malignity.

Religion formed no bond of intercourse and union. It is, indeed, an admirable feature of Canadian society, that it is entirely devoid of any religious dissensions. Sectarian intolerance is not merely not avowed, but it hardly seems to influence men's feelings. But though the prudence and liberality of both parties has prevented this fruitful source of animosity from embittering their quarrels, the difference of religion has in fact tended to keep them asunder. Their priests have been distinct; they have not met even in the same church.

No common education has served to remove and soften the differences of origin and language. The associations of youth, the sports of childhood, and the studies by which the character of manhood is modified, are distinct and totally different. In Montreal and Quebec there are English schools, and French schools; the children in these are accustomed to fight nation against nation, and the quarrels that arise among boys in the streets usually exhibit a division into English on one side, and French on the other.

As they are taught apart, so are their studies different. The literature with which each is the most conversant, is that of the peculiar language of each; and all the ideas which men derive from books, come to each of them from perfectly different sources. The difference of language in this respect produces effects quite apart from those which it has on the mere intercourse of the two races. Those who have reflected on the powerful influence of language on thought, will perceive in how different a manner people who speak in different languages are apt to think; and those who are familiar with the literature of France, know that the same opinion will be expressed by an English and French writer of the present day, not merely in different words, but in a style so different as to mark utterly different habits of thought. This difference is very striking in Lower Canada; it exists not merely in the books of most influence and repute, which are of course those of the great writers

of France and England, and by which the minds of the respective races are formed, but it is observable in the writings which now issue from the Colonial press. The articles in the newspapers of each race, are written in a style as widely different as those of France and England at present; and the arguments which convince the one, are calculated to appear utterly unintelligible to the other.

The difference of language produces misconceptions yet more fatal even than those which it occasions with respect to opinions; it aggravates the national animosities, by representing all the events of the day in utterly different lights. The political misrepresentation of facts is one of the incidents of a free press in every free country; but in nations in which all speak the same language, those who receive a misrepresentation from one side, have generally some means of learning the truth from the other. In Lower Canada, however, where the French and English papers represent adverse opinions, and where no large portion of the community can read both languages with ease, those who receive the misrepresentation are rarely able to avail themselves of the means of correction. It is difficult to conceive the perversity with which misrepresentations are habitually made, and the gross delusions which find currency among the people: they thus live in a world of misconceptions, in which each party is set against the other not only by diversity of feelings and opinions, but by an actual belief in an utterly different set of facts.

The differences thus early occasioned by education and language, are in nowise softened by the intercourse of after-life; their business and occupations do not bring the two races into friendly contact and co-operation, but only present them to each other in occasional rivalry. A laudable emulation has of late induced the French to enter on the field previously occupied by the English, and to attempt to compete with them in commerce; but it is much to be lamented that this did not commence until the national animosities had arrived almost at the highest pitch, and that the competition has been carried on in such a manner as to widen the pre-existing differences. The establishment

of the "Banque du Peuple" by French capitalists, is an event which may be regarded as a satisfactory indication of an awakening commercial energy among the French, and it is therefore very much to be regretted that the success of the new enterprise was uniformly promoted by direct and illiberal appeals to the national feelings of the race. Some of the French have lately established steam-boats to compete with the monopoly which a combination of English capitalists had for some time enjoyed on the St. Lawrence, and small and somewhat uncomfortable as they were, they were regarded with favour on account of their superiority in the essential qualities of certainty and celerity. But this was not considered sufficient to ensure their success; an appeal was constantly made to the national feelings of the French for an exclusive preference of the "French" line; and I have known a French newspaper announce with satisfaction the fact, that on the previous day the French steamers to Quebec and La Prairie had arrived at Montreal with a great many passengers, and the English with very few. The English, on the other hand, appealed to exactly the same kind of feelings, and used to apply to the French steam-boats the epithets of "Radical," "Rebel," and "Disloyal." The introduction of this kind of national preference into this department of business, produced a particularly mischievous effect, inasmuch as it separated the two races on some of the few occasions on which they had previously been thrown into each other's society. They rarely meet at the inns in the cities; the principal hotels are almost exclusively filled with English and with foreign travellers; and the French are, for the most part, received at each other's houses, or in boarding-houses, in which they meet with few English.

Nor do their amusements bring them more in contact. Social intercourse never existed between the two races in any but the higher classes, and it is now almost destroyed. I heard of but one house in Quebec in which both races met on pretty equal and amicable terms, and this was mentioned as a singular instance of good sense on the part of the gentleman to whom it belongs. At the commencement of

Lord Aylmer's administration, an entertainment was given to his Lordship by Mr. Papineau, the Speaker of the House of Assembly. It was generally understood to be intended as a mark of confidence and good-will towards the Governor, and of a conciliatory disposition. It was given on a very large scale, a very great number of persons were present; and of that number I was informed by a gentleman who was present, that he and one other were the only English, except the Governor and his suite. Indeed the difference of manners in the two races renders a general social intercourse almost impossible.

A singular instance of national incompatibility was brought before my notice, in an attempt which I made to promote an undertaking, in which the French were said to take a great deal of interest. I accepted the office of President of the Agricultural Association of the district of Quebec, and attended the show previous to the distribution of the prizes. I then found that the French farmers would not compete even on this neutral ground with the English; distinct prizes were given, in almost every department, to the two races; and the national ploughing matches were carried on in separate and even distant fields.

While such is their social intercourse, it is not to be expected that the animosities of the two races can frequently be softened by the formation of domestic connections. During the first period of the possession of the Colony by the English, intermarriages of the two races were by no means uncommon. But they are now very rare; and where such unions occur they are generally formed with members of the French families, which I have described as politically, and almost nationally, separated from the bulk of their own race.

I could mention various slight features in the state of society, which show the all-pervading and marked division of the races; but nothing (though it will sound paradoxical) really proves their entire separation so much as the rarity, nay almost total absence, of personal encounters between the two races. Disputes of this kind are almost confined to the ruder order of people, and seldom proceed to acts of vio-

lence. As respects the other classes, social intercourse between the two races is so limited, that the more prominent or excitable antagonists never meet in the same room. It came to my knowledge that a gentleman, who was for some years a most active and determined leader amongst the English population, had never once been under a private roof with French Canadians of his own rank in life, until he met some at table on the invitation of persons attached to my mission, who were in the habit of associating indifferently with French and English. There are therefore no political personal controversies. The ordinary occasions of collision never occur, and men must quarrel so publicly, or so deliberately, that prudence restrains them from commencing, individually, what would probably end in a general and bloody conflict of numbers. Their mutual fears restrain personal disputes and riots, even among the lower orders; the French know and dread the superior physical strength of the English in the cities; and the English in those places refrain from exhibiting their power, from fear of the revenge that might be taken on their countrymen, who are scattered over the rural parishes.

This feeling of mutual forbearance extends so far as to produce an apparent calm with respect to public matters, which is calculated to perplex a stranger who has heard much of the animosities of the Province. No trace of them appears in public meetings; and these take place in every direction, in the most excited periods, and go off without disturbance, and almost without dissent. The fact is, that both parties have come to a tacit understanding, not in any way to interfere with each other on these occasions; each party knowing that it would always be in the power of the other to prevent its meetings. The British party consequently have their meetings; the French theirs; and neither disturb the other. The complimentary addresses which I received on various occasions, marked the same entire separation, even in a matter in which it might be supposed that party feeling would not be felt, or would from mere prudence and propriety be concealed. I had from the same places, French and English addresses, and I never found the two

races uniting, except in a few cases, where I met with the names of two or three isolated members of one origin, who happened to dwell in a community almost entirely composed of the other. The two parties combine for no public object; they cannot harmonize even in associations of charity. The only public occasion on which they ever meet, is in the jury-box; and they meet there only to the utter obstruction of justice.

The hostility which thus pervades society, was some time growing before it became of prominent importance in the politics of the Province. It was inevitable that such social feelings must end in a deadly political strife. The French regarded with jealousy the influence in politics of a daily increasing body of the strangers, whom they so much disliked and dreaded; the wealthy English were offended at finding that their property gave them no influence over their French dependents, who were acting under the guidance of leaders of their own race; and the farmers and traders of the same race were not long before they began to bear with impatience their utter political nullity in the midst of the majority of a population, whose ignorance they contemned, and whose political views and conduct seemed utterly at variance with their own notions of the principles and practice of self-government. The superior political and practical intelligence of the English cannot be, for a moment, disputed. The great mass of the Canadian population, who cannot read or write, and have found in few of the institutions of their country, even the elements of political education, were obviously inferior to the English settlers, of whom a large proportion had received a considerable amount of education, and had been trained in their own country, to take a part in public business of one kind or another. With respect to the more educated classes, the superiority is not so general or apparent; indeed, from all the information that I could collect, I incline to think that the greater amount of refinement, of speculative thought, and of the knowledge that books can give, is, with some brilliant exceptions, to be found among the French. But I have no hesitation in stating, even more decidedly, that the circumstances in which the English have

been placed in Lower Canada, acting on their original political education, have endowed the leaders of that population with much of that practical sagacity, tact, and energy in politics, in which I must say, that the bad institutions of the Colony have, in my opinion, rendered the leaders of the French deplorably deficient. That a race which felt itself thus superior in political activity and intelligence, should submit with patience to the rule of a majority which it could not respect, was impossible. At what time, and from what particular cause, the hostility between such a majority and such a minority, which was sure sooner or later to break out, actually became of paramount importance, it is difficult to say. The hostility between the Assembly and the British Government had long given a tendency to attacks, on the part of the popular leaders, on the nation to which that government belonged. It is said that the appeals to the national pride and animosities of the French, became more direct and general on the occasion of the abortive attempt to re-unite Upper and Lower Canada in 1822, which the leaders of the Assembly viewed or represented as a blow aimed at the institutions of their Province. The anger of the English was excited by the denunciations of themselves, which, subsequently to this period, they were in the habit of hearing. They had possibly some little sympathy with the members of the provincial government of their own race; and their feelings were, probably, yet more strongly excited in favour of the connection of the Colony with Great Britain, which the proceedings of the Assembly appeared to endanger. But the abuses existing under the provincial government, gave such inducements to remain in opposition to it, that the representatives of each race continued for a long time to act together against it. And as the bulk of the English population in the townships and on the Ottawa were brought into very little personal contact with the French, I am inclined to think that it might have been some time longer ere the disputes of origin would have assumed an importance paramount to all others, had not the Assembly come into collision with the whole English population by its policy with respect to internal improvements, and to the old

and defective laws, which operated as a bar to the alienation of land, and to the formation of associations for commercial purposes.

The English population, an immigrant and enterprising population, looked on the American Provinces as a vast field for settlement and speculation, and in the common spirit of the Anglo-Saxon inhabitants of that continent, regarded it as the chief business of the Government, to promote, by all possible use of its legislative and administrative powers, the increase of population and the accumulation of property; they found the laws of real property exceedingly adverse to the easy alienation of land, which is, in a new country, absolutely essential to its settlement and improvement; they found the greatest deficiency in the internal communications of the country; and the utter want of local self-government rendered it necessary for them to apply to the Assembly for every road or bridge, or other public work that was needed. They wished to form themselves into companies for the establishment of banks, and the construction of railroads and canals, and to obtain the powers necessary for the completion of such works with funds of their own. And as the first requisite for the improvement of the country, they desired that a large proportion of the revenue should be applied to the completion of that great series of public works by which it was proposed to render the St. Lawrence and the Ottawa navigable throughout their whole extent.

Without going so far as to accuse the Assembly of a deliberate design to check the settlement and improvement of Lower Canada, it cannot be denied that they looked with considerable jealousy and dislike on the increase and prosperity of what they regarded as a foreign and hostile race; they looked on the Province as the patrimony of their own race; they viewed it not as a country to be settled, but as one already settled; and instead of legislating in the American spirit, and first providing for the future population of the Province, their primary care was, in the spirit of legislation which prevails in the old world, to guard the interests and feelings of the present race of inhabitants, to whom they considered the new comers as subordinate; they refused to in-

crease the burthens of the country by imposing taxes to meet the expenditure required for improvement, and they also refused to direct to that object any of the funds previously devoted to other purposes. The improvement of the harbour of Montreal was suspended, from a political antipathy to a leading English merchant who had been the most active of the Commissioners, and by whom it had been conducted with the most admirable success. It is but just to say, that some of the works which the Assembly authorized and encouraged were undertaken on a scale of due moderation, and satisfactorily perfected and brought into operation. Others, especially the great communications which I have mentioned above, the Assembly showed a great reluctance to promote, or even to permit. It is true that there was considerable foundation for their objections to the plan on which the Legislature of Upper Canada had commenced some of these works, and to the mode in which it had carried them on; but the English complained, that instead of profiting by the experience which they might have derived from this source, the Assembly seemed only to make its objections a pretext for doing nothing. The applications for banks, railroads, and canals were laid on one side until some general measures could be adopted with regard to such undertakings; but the general measures thus promised were never passed, and the particular enterprizes in question were prevented. The adoption of a registry was refused on the alleged ground of its inconsistency with the French institutions of the Province, and no measure to attain this desirable end, in a less obnoxious mode, was prepared by the leaders of the Assembly. The feudal tenure was supported, as a mild and just provision for the settlement of a new country; a kind of assurance given by a Committee of the Assembly, that some steps should be taken to remove the most injurious incidents of the seignorial tenure, produced no practical results; and the enterprizes of the English were still thwarted by the obnoxious laws of the country. In all these decisions of the Assembly, in its discussions, and in the apparent motives of its conduct, the English population perceived traces of a desire to repress the influx and the success of their race. A mea-

sure for imposing a tax on emigrants, though recommended by the Home Government, and warranted by the policy of those neighbouring states, which give the greatest encouragement to immigration, was argued on such grounds in the Assembly, that it was not unjustly regarded as indicative of an intention to exclude any further accession to the English population ; and the industry of the English was thus retarded by this conduct of the Assembly. Some districts, particularly that of the Eastern Townships, where the French race has no footing, were seriously injured by the refusal of necessary improvements ; and the English inhabitants generally regarded the policy of the Assembly as a plan for preventing any further emigration to the Province, of stopping the growth of English wealth, and of rendering precarious the English property already invested or acquired in Lower Canada.

The Assembly of which they thus complained, and of which they entertained apprehensions so serious, was at the same time in collision with the Executive Government. The party in power, and which, by means of the Legislative Council, kept the Assembly in check, gladly availed itself of the discontents of this powerful and energetic minority, offered it its protection, and undertook the furtherance of its views ; and thus was cemented the singular alliance between the English population and the Colonial officials, who combined from perfectly different motives, and with perfectly different objects, against a common enemy. The English desired reform and liberal measures from the Assembly, which refused them, while it was urging other reforms and demanding other liberal measures from the Executive Government. The Assembly complained of the oppressive use of the power of the Executive ; the English complained that they, a minority, suffered under the oppressive use to which power was turned by the French majority. Thus a bold and intelligent democracy was impelled, by its impatience for liberal measures, joined to its national antipathies, to make common cause with a government which was at issue with the majority on the question of popular rights. The actual conflict commenced by a collision between the Executive and

the French majority; and, as the English population rallied round the Government, supported its pretensions, and designated themselves by the appellation of "loyal," the causes of the quarrel were naturally supposed to be much more simple than they really were; and the extent of the division which existed among the inhabitants of Lower Canada, the number and nature of the combatants arrayed on each side, and the irremediable nature of the dispute, were concealed from the public view.

The treasonable attempt of the French party to carry its political objects into effect by an appeal to arms, brought these hostile races into general and armed collision. I will not dwell on the melancholy scenes exhibited in the progress of the contest, or the fierce passions which held an unchecked sway during the insurrection, or immediately after its suppression. It is not difficult to conceive how greatly the evils, which I have described as previously existing, have been aggravated by the war; how terror and revenge nourished, in each portion of the population, a bitter and irreconcileable hatred to each other, and to the institutions of the country. The French population, who had for some time exercised a great and increasing power through the medium of the House of Assembly, found their hopes unexpectedly prostrated in the dust. The physical force which they had vaunted was called into action, and proved to be utterly inefficient. The hope of recovering their previous ascendancy under a constitution, similar to that suspended, almost ceased to exist. Removed from all actual share in the government of their country, they brood in sullen silence over the memory of their fallen countrymen, of their burnt villages, of their ruined property, of their extinguished ascendancy, and of their humbled nationality. To the Government and the English they ascribe these wrongs, and nourish against both an indiscriminating and eternal animosity. Nor have the English inhabitants forgotten in their triumph the terror with which they suddenly saw themselves surrounded by an insurgent majority, and the incidents which alone appeared to save them from the unchecked domination of their antagonists. They find them-

selves still a minority in the midst of a hostile and organized people; apprehensions of secret conspiracies and sanguinary designs haunt them unceasingly, and their only hope of safety is supposed to rest on systematically terrifying and disabling the French, and in preventing a majority of that race from ever again being predominant in any portion of the legislature of the province. I describe in strong terms the feelings which appear to me to animate each portion of the population; and the picture which I draw represents a state of things so little familiar to the personal experience of the people of this country, that many will probably regard it as the work of mere imagination; but I feel confident that the accuracy and moderation of my description will be acknowledged by all who have seen the state of society in Lower Canada during the last year. Nor do I exaggerate the inevitable constancy any more than the intensity of this animosity. Never again will the present generation of French Canadians yield a loyal submission to a British Government; never again will the English population tolerate the authority of a House of Assembly, in which the French shall possess or even approximate to a majority.

Nor is it simply the working of representative government which is placed out of question by the present disposition of the two races; every institution which requires for its efficiency a confidence in the mass of the people, or co-operation between its classes, is practically in abeyance in Lower Canada. The militia, on which the main defence of the Province against external enemies, and the discharge of many of the functions of internal police have hitherto depended, is completely disorganized. A muster of that force would, in some districts, be the occasion for quarrels between the races, and in the greater part of the country the attempting to arm or employ it would be merely arming the enemies of the Government. The course of justice is entirely obstructed by the same cause; a just decision in any political case is not to be relied upon; even the judicial bench is, in the opinion of both races, divided into two hostile sections of French and

English, from neither of whom is justice expected by the mass of the hostile party. The partiality of grand and petty juries is a matter of certainty; each race relies on the vote of its countryman to save it harmless from the law, and the mode of challenging allows of such an exclusion of the hostile party that the French offender may make sure of, and the English hope for a favourable jury, and a consequent acquittal. This state of things, and the consequent impunity of political offences, is distinctly admitted by both sides. The trial of the murderers of Chartrand has placed this disposition of the French jurors in a most glaring light: the notes of the Chief Justice in this case were transmitted by me to the Secretary of State; and a perusal of them will satisfy every candid and well-ordered mind that a base and cruel assassination, committed without a single circumstance of provocation or palliation, was brought home by evidence which no man ever pretended to doubt, against the prisoners, whom the jury nevertheless acquitted. The duty of giving this dishonest verdict had been most assiduously and shamefully inculcated by the French press before the trial came on; the jurors are said to have been kept for some time previous in the hands of zealous partizans, whose business it was not only to influence their inclination, but to stimulate their courage; the array of the leaders of the party who were present at the trial was supposed to be collected for the same purpose: and it is notorious that the acquittal was celebrated at public entertainments, to which the jurors were invited in order that they might be thanked for their verdict.

But the influence of this animosity does not obstruct the course of justice in political cases alone. An example of obstruction of ordinary criminal justice recently occurred at Quebec. A person had been, during a previous term, indicted and tried for some offence seriously affecting his moral character. The charge had been supported by a witness whom the jury considered perjured, and the accused had been acquitted. Having reason to believe that the witness had been instigated by a neighbour, the acquitted person indicted this neighbour for subornation of perjury,

and brought the witness, who had formerly appeared against himself, to prove the falsehood of his previous evidence, and the fact of his subornation. The proof of subornation appears to have rested, in some particulars, too much on the unsupported evidence of this witness; the jury differed in opinion, one portion of them believing the guilt of the accused to be on the whole satisfactorily established, the other refusing to believe that part of the case which depended solely on the evidence of a man who came into court to swear to the fact of his own previous perjury. This was a difference of opinion which might naturally divide a jury, but as all the parties were French, and as there is nothing in the circumstances which marks this as a case in which feelings of politics or origin could be supposed to operate, it will, I imagine, appear singular that the jury, being composed nearly equally of French and English, all the French were on one side, all the English on the other. After long discussion the jury came into court, and declared their inability to agree; and the foreman, on being told by the Judge that they must agree, answered that there were an equal number of French and English, and consequently never could agree. In the end they did not, and after being locked up for twelve hours, they were discharged without giving a verdict; so that even in a case in which no question of party or of race is concerned, the animosity of the races, nevertheless, appears to present an insurmountable barrier to the impartial administration of justice.

In such a state of feelings the course of civil government is hopelessly suspended. No confidence can be felt in the stability of any existing institution, or the security of person and property. It cannot occasion surprise that this state of things should have destroyed the tranquillity and the happiness of families; that it should have depreciated the value of property, and that it should have arrested the improvement and settlement of the country. The alarming decline of the value of landed property was attested to me by some of the principal proprietors of the Province. The continual and progressive decrease of the revenue, though in some degree attributable to other causes, indicates a diminution of

the wealth of the country. The staple export trade of the Province, the timber trade, has not suffered; but instead of exporting grain, the Province is now obliged to import for its own consumption. The influx of emigrants, once so considerable, has very greatly diminished. In 1832 the number of emigrants who landed at the port of Quebec amounted to 52,000; in 1837 it had fallen to a few more than 22,000; and in 1838 it did not amount to 5,000. Insecurity begins to be so strongly felt by the loyal inhabitants of the seigniories, that many of them are compelled, by fear or necessity, to quit their occupations, and seek refuge in the cities. If the present state of things continues, the most enterprizing and wealthy capitalists of the Province will thus in a short time be driven from the seats of their present industry.

Nor does there appear to be the slightest chance of putting an end to this animosity during the present generation. Passions inflamed during so long a period cannot speedily be calmed. The state of education which I have previously described as placing the peasantry entirely at the mercy of agitators, the total absence of any class of persons, or any organization of authority that could counteract this mischievous influence, and the serious decline in the district of Montreal of the influence of the clergy, concur in rendering it absolutely impossible for the Government to produce any better state of feeling among the French population. It is even impossible to impress on a people so circumstanced the salutary dread of the power of Great Britain, which the presence of a large military force in the Province might be expected to produce. I have been informed by witnesses so numerous and so trustworthy, that I cannot doubt the correctness of their statements, that the peasantry were generally ignorant of the large amount of force which was sent into their country last year. The newspapers that circulate among them had informed them that Great Britain had no troops to send out; that, in order to produce an impression on the minds of the country people, the same regiments were marched backwards and forwards in different directions, and represented as additional arrivals from home. This explanation was promulgated among the people by the

agitators of each village; and I have no doubt that the mass of the habitans really believed that the Government was endeavouring to impose on them by this species of fraud. It is a population with whom authority has no means of contact or explanation. It is difficult even to ascertain what amount of influence the ancient leaders of the French party continue to possess. The name of Mr. Papineau is still cherished by the people; and the idea is current that, at the appointed time, he will return, at the head of an immense army, and re-establish "La Nation Canadienne." But there is great reason to doubt whether his name be not used as a mere watchword; whether the people are not in fact running entirely counter to his counsels and policy; and whether they are not really under the guidance of separate petty agitators, who have no plan but that of a senseless and reckless determination to show in every way their hostility to the British Government and English race. Their ultimate designs and hopes are equally unintelligible. Some vague expectation of absolute independence still seems to delude them. The national vanity, which is a remarkable ingredient in their character, induces many to flatter themselves with the idea of a Canadian Republic; the sounder information of others has led them to perceive that a separation from Great Britain must be followed by a junction with the great Confederation on their southern frontier. But they seem apparently reckless of the consequences, provided they can wreak their vengeance on the English. There is no people against which early associations and every conceivable difference of manners and opinions, have implanted in the Canadian mind a more ancient and rooted national antipathy than that which they feel against the people of the United States. Their more discerning leaders feel that their chances of preserving their nationality would be greatly diminished by an incorporation with the United States; and recent symptoms of Anti-Catholic feeling in New England, well known to the Canadian population, have generated a very general belief that their religion, which even they do not accuse the British party of assailing, would find little favour or respect from their neighbours. Yet none even of these consi-

derations weigh against their present all-absorbing hatred of the English; and I am persuaded that they would purchase vengeance and a momentary triumph, by the aid of any enemies, or submission to any yoke. This provisional but complete cessation of their ancient antipathy to the Americans, is now admitted even by those who most strongly denied it during the last spring, and who then asserted that an American war would as completely unite the whole population against the common enemy, as it did in 1813. My subsequent experience leaves no doubt in my mind, that the views which were contained in my Despatch of the 9th of August are perfectly correct; and that an invading American army might rely on the co-operation of almost the entire French population of Lower Canada.

In the Despatch above referred to I also described the state of feeling among the English population, nor can I encourage a hope that that portion of the community is at all more inclined to any settlement of the present quarrel, that would leave any share of power to the hostile race. Circumstances having thrown the English into the ranks of the Government, and the folly of their opponents having placed them, on the other hand, in a state of permanent collision with it, the former possess the advantage of having the force of Government, and the authority of the laws on their side in the present stage of the contest. Their exertions during the recent troubles have contributed to maintain the supremacy of the law, and the continuance of the connection with Great Britain; but it would, in my opinion, be dangerous to rely on the continuance of such a state of feeling as now prevails among them, in the event of a different policy being adopted by the Imperial Government. Indeed, the prevalent sentiment among them is one of any thing but satisfaction with the course which has been long pursued, with reference to Lower Canada, by the British Legislature and Executive. The calmer view, which distant spectators are enabled to take of the conduct of the two parties, and the disposition which is evinced to make a fair adjustment of the contending claims, appear iniquitous and injurious in the eyes of men who think that they alone have any claim

to the favour of that Government, by which they alone have stood fast. They complain loudly and bitterly of the whole course pursued by the Imperial Government, with respect to the quarrel of the two races, as having been founded on an utter ignorance or disregard of the real question at issue, as having fostered the mischievous pretensions of French nationality, and as having by the vacillation and inconsistency which marked it, discouraged loyalty and fomented rebellion. Every measure of clemency or even justice towards their opponents they regard with jealousy, as indicating a disposition towards that conciliatory policy which is the subject of their angry recollection; for they feel that being a minority, any return to the due course of constitutional government would again subject them to a French majority; and to this I am persuaded they would never peaceably submit. They do not hesitate to say that they will not tolerate much longer the being made the sport of parties at home; and that if the mother country forgets what is due to the loyal and enterprising men of her own race, they must protect themselves. In the significant language of one of their own ablest advocates, they assert that "Lower Canada must be *English*, at the expense, if necessary, of not being *British*."

I have, in Despatches of a later date than that to which I have had occasion so frequently to refer, called the attention of the Home Government to the growth of this alarming state of feeling among the English population. The course of the late troubles, and the assistance which the French insurgents derived from some citizens of the United States, have caused a most intense exasperation among the Canadian loyalists against the American Government and people. Their papers have teemed with the most unmeasured denunciations of the good faith of the authorities, of the character and morality of the people, and of the political institutions of the United States. Yet, under this surface of hostility, it is easy to detect a strong under current of an exactly contrary feeling. As the general opinion of the American people became more apparent during the course of the last year, the English of Lower Canada were surprised to find

how strong, in spite of the first burst of sympathy with a people supposed to be struggling for independence, was the real sympathy of their republican neighbours with the great objects of the minority. Without abandoning their attachment to their mother country, they have begun, as men in a state of uncertainty are apt to do, to calculate the probable consequences of a separation, if it should unfortunately occur, and be followed by an incorporation with the United States. In spite of the shock which it would occasion their feelings, they undoubtedly think that they should find some compensation in the promotion of their interests; they believe that the influx of American emigration would speedily place the English race in a majority; they talk frequently and loudly of what has occurred in Louisiana, where, by means which they utterly misrepresent, the end nevertheless of securing an English predominance over a French population, has undoubtedly been attained; they assert very confidently that the Americans would make a very speedy and decisive settlement of the pretensions of the French; and they believe, that after the first shock of an entirely new political state had been got over, they and their posterity would share in that amazing progress, and that great material prosperity, which every day's experience shows them is the lot of the people of the United States. I do not believe that such a feeling has yet sapped their strong allegiance to the British Empire; but their allegiance is founded on their deep-rooted attachment to British as distinguished from French institutions. And if they find that that authority which they have maintained against its recent assailants, is to be exerted in such a manner as to subject them again to what they call a French dominion, I feel perfectly confident that they would attempt to avert the result, by courting, on any terms, an union with an Anglo-Saxon people.

Such is the lamentable and hazardous state of things produced by the conflict of races which has so long divided the Province of Lower Canada, and which has assumed the formidable and irreconcileable character which I have depicted. In describing the nature of this conflict, I have

specified the causes in which it originated ; and though I have mentioned the conduct and constitution of the Colonial Government as modifying the character of the struggle, I have not attributed to political causes a state of things which would, I believe, under any political institutions, have resulted from the very composition of society. A jealousy between two races, so long habituated to regard each other with hereditary enmity, and so differing in habits, in language, and in laws, would have been inevitable under any form of government. That liberal institutions, and a prudent policy, might have changed the character of the struggle I have no doubt ; but they could not have prevented it ; they could only have softened its character, and brought it more speedily to a more decisive and peaceful conclusion. Unhappily, however, the system of government pursued in Lower Canada has been based on the policy of perpetuating that very separation of the races, and encouraging these very notions of conflicting nationalities, which it ought to have been the first and chief care of Government to check and extinguish. From the period of the conquest to the present time, the conduct of the Government has aggravated the evil, and the origin of the present extreme disorder may be found in the institutions by which the character of the colony was determined.

There are two modes by which a Government may deal with a conquered territory. The first course open to it is that of respecting the rights and nationality of the actual occupants; of recognizing the existing laws, and preserving established institutions ; of giving no encouragement to the influx of the conquering people, and, without attempting any change in the elements of the community, merely incorporating the Province under the general authority of the central Government. The second is that of treating the conquered territory as one open to the conquerors, of encouraging their influx, of regarding the conquered race as entirely subordinate, and of endeavouring as speedily and as rapidly as possible to assimilate the character and institutions of its new subjects to those of the great body of its empire. In the case of an old and long settled country, in which the

land is appropriated, in which little room is left for colonization, and in which the race of the actual occupants must continue to constitute the bulk of the future population of the Province, policy as well as humanity render the well-being of the conquered people the first care of a just government, and recommend the adoption of the first-mentioned system; but in a new and unsettled country, a provident legislator would regard as his first object the interests, not of the few individuals who happen at the moment to inhabit a portion of the soil, but those of that comparatively vast population by which he may reasonably expect that it will be filled; he would form his plans with a view of attracting and nourishing that future population, and he would therefore establish those institutions which would be most acceptable to the race by which he hoped to colonize the country. The course which I have described as best suited to an old and settled country, would have been impossible in the American continent, unless the conquering state meant to renounce the immediate use of the unsettled lands of the Province; and in this case such a course would have been additionally unadvisable, unless the British Government were prepared to abandon to the scanty population of French whom it found in Lower Canada, not merely the possession of the vast extent of rich soil which that Province contains, but also the mouth of the St. Lawrence, and all the facilities for trade which the entrance of that great river commands.

In the first regulations adopted by the British Government for the settlement of the Canadas, in the Proclamation of 1763, and the Commission of the Governor-in-Chief of the Province of Quebec, in the offers by which officers and soldiers of the British army, and settlers from the other North American Provinces, were tempted to accept grants of land in the Canadas, we perceive very clear indications of an intention of adopting the second and the wiser of the two systems. Unfortunately, however, the conquest of Canada was almost immediately followed by the commencement of those discontents which ended in the independence of the United Provinces. From that period, the colonial

policy of this country appears to have undergone a complete change. To prevent the further dismemberment of the Empire became the primary object with our statesmen; and an especial anxiety was exhibited to adopt every expedient which appeared calculated to prevent the remaining North American Colonies from following the example of successful revolt. Unfortunately, the distinct national character of the French inhabitants of Canada, and their ancient hostility to the people of New England, presented the easiest and most obvious line of demarcation. To isolate the inhabitants of the British from those of the revolted Colonies, became the policy of the Government; and the nationality of the French Canadians was therefore cultivated, as a means of perpetual and entire separation from their neighbours*. It seems also to have been considered the policy

* This policy was not abandoned even at so late a period as the year 1816; as will appear by the following Despatch from Lord Bathurst to the Governor of Lower Canada:—

Sir, Downing-street, 1st July 1816.

You are, no doubt, aware of the inquiries which have been made in the Province as to the practicability of leaving in a state of nature that part of the frontier which lies between Lake Champlain and Montreal; and you have, no doubt, had under your review the Report of the Surveyor-general on this subject, which was enclosed in Sir Gordon Drummond's Despatch of 21st April 1816, No. 119. With the opinion which his Majesty's Government entertains upon this subject, it cannot but be a matter of regret to think that any settlements should have been made in the districts of Hemingford, Sherrington, Goodmanchester, or Hinchinbrook. But at the same time I cannot recommend the dispossession of the settlers, at the expense which must result from the purchase of the lands which they have cleared, and the improvements which they have made upon them, unless indeed that purchase could be effected by an adequate assignment of other waste lands of the Crown in other quarters. I must confine myself, therefore, to instructing you to abstain altogether from making, hereafter, any grants in these districts, and to use every endeavour to induce those who have received grants there, and have not yet proceeded to the cultivation of them, to accept uncleared lands in other districts more distant from the frontier of the United States. In some cases, where the lands have been long granted, they must, I apprehend, under the usual conditions of the grants, have become resumable by the Crown; and in such case you can have no

of the British Government to govern its Colonies by means of division, and to break them down as much as possible into petty isolated communities, incapable of combination, and possessing no sufficient strength for individual resistance to the Empire. Indications of such designs are to be found in many of the acts of the British Government with respect to its North American Colonies. In 1775 instructions were sent from England, directing that all grants of land within the Province of Quebec, then comprising Upper and Lower Canada, were to be made in fief and seignory; and even the grants to the refugee loyalists, and officers and privates of the colonial corps, promised in 1786, were ordered to be made on the same tenure. In no instance was it more singularly exhibited than in the condition annexed to the grants of land in Prince Edward's Island, by which it was stipulated that the Island was to be settled by "foreign Protestants;" as if they were to be foreign in order to separate them from the people of New England, and Protestants in order to keep them apart from the Canadian and Acadian Catholics. It was part of the same policy to separate the French of Canada from the British emigrants, and to conciliate the former by the retention of their language, laws, and religious institutions. For this purpose Canada was afterwards divided into two Provinces, the settled portion being allotted to the French, and the un-

difficulty in preventing their cultivation; and the expediency of making other grants, in lieu of those resumed, will depend upon the particular circumstances of each individual case.

It is also very desirable that you should, as far as lies in your power, prevent the extension of roads in the direction of those particular districts beyond the limits of that division of the Province referred to in the plan of the Surveyor-general as being generally cultivated; and if any means should present themselves of letting those which have been already made, fall into decay, you will best comply with the views of his Majesty's Government, and materially contribute to the future security of the Province, by their adoption.

I have the honour, &c. &c.

(Signed) *Bathurst.*

Lieutenant-General Sir J. C. Sherbrooke,
&c. &c. &c.

settled being destined to become the seat of British colonization. Thus, instead of availing itself of the means which the extent and nature of the Province afforded for the gradual introduction of such an English population into its various parts as might have easily placed the French in a minority, the Government deliberately constituted the French into a majority, and recognized and strengthened their distinct national character. Had the sounder policy of making the Province English, in all its institutions, been adopted from the first, and steadily persevered in, the French would probably have been speedily outnumbered, and the beneficial operation of the free institutions of England would never have been impeded by the animosities of origin.

Not only, however, did the Government adopt the unwise course of dividing Canada, and forming in one of its divisions a French community, speaking the French language, and retaining French institutions, but it did not even carry this consistently into effect; for at the same time provision was made for encouraging the emigration of English into the very Province which was said to be assigned to the French. Even the French institutions were not extended over the whole of Lower Canada. The civil law of France, as a whole, and the legal provision for the Catholic clergy, were limited to the portion of the country then settled by the French, and comprised in the seignories; though some provision was made for the formation of new seignories, almost the whole of the then unsettled portion of the Province was formed into townships, in which the law of England was partially established, and the Protestant religion alone endowed. Thus two populations of hostile origin and different characters, were brought into juxta-position under a common government, but under different institutions; each was taught to cherish its own language, laws, and habits, and each, at the same time, if it moved beyond its original limits, was brought under different institutions, and associated with a different people. The unenterprising character of the French population, and, above all, its attachment to its church (for the enlargement of which, in proportion to the increase or diffusion of the Catholic popu-

lation, very inadequate provision was made) have produced the effect of confining it within its ancient limits. But the English were attracted into the seignories, and especially into the cities, by the facilities of commerce afforded by the great rivers. To have effectually given the policy of retaining French institutions and a French population in Lower Canada a fair chance of success, no other institutions should have been allowed, and no other race should have received any encouragement to settle therein. The Province should have been set apart to be wholly French, if it was not to be rendered completely English. The attempt to encourage English emigration into a community, of which the French character was still to be preserved, was an error which planted the seeds of a contest of races in the very constitution of the Colony; this was an error, I mean, even on the assumption that it was possible to exclude the English race from French Canada. But it was quite impossible to exclude the English race from any part of the North American continent. It will be acknowledged by every one who has observed the progress of Anglo-Saxon colonization in America, that sooner or later the English race was sure to predominate even numerically in Lower Canada, as they predominate already by their superior knowledge, energy, enterprise, and wealth. The error, therefore, to which the present contest must be attributed, is the vain endeavour to preserve a French Canadian nationality in the midst of Anglo-American colonies and states.

That contest has arisen by degrees. The scanty number of the English who settled in Lower Canada during the earlier period of our possession, put out of the question any ideas of rivalry between the races. Indeed, until the popular principles of English institutions were brought effectually into operation, the paramount authority of the Government left little room for dispute among any but the few who contended for its favours. It was not until the English had established a vast trade, and accumulated considerable wealth, until a great part of the landed property of the Province was vested in their hands, until a large English population was found in the cities, had scattered itself over

large portions of the country, and had formed considerable communities in the townships, and not until the development of representative government had placed substantial power in the hands of the people, that that people divided itself into races, arrayed against each other in intense and enduring animosity.

The errors of the Government did not cease with that, to which I have attributed the origin of this animosity. The defects of the colonial constitution necessarily brought the executive Government into collision with the people; and the disputes of the Government and the people called into action the animosities of race; nor has the policy of the Government obviated the evils inherent in the constitution of the Colony, and the composition of society. It has done nothing to repair its original error, by making the Province English. Occupied in a continued conflict with the Assembly, successive Governors and their councils have overlooked, in great measure, the real importance of the feud of origin; and the Imperial Government, far removed from opportunities of personal observation of the peculiar state of society, has shaped its policy so as to aggravate the disorder. In some instances it has actually conceded the mischievous pretensions of nationality, in order to evade popular claims; as in attempting to divide the Legislative Council, and the patronage of Government, equally between the two races, in order to avoid the demands for an elective Council, and a responsible Executive; sometimes it has, for a while, pursued the opposite course. A policy founded on imperfect information, and conducted by continually changing hands, has exhibited to the Colony a system of vacillation which was in fact no system at all. The alternate concessions to the contending races have only irritated both, impaired the authority of Government, and, by keeping alive the hopes of a French Canadian nationality, counteracted the influences which might, ere this, have brought the quarrel to its natural and necessary termination. It is impossible to determine precisely the respective effects of the social and political causes. The struggle between the Government and the Assembly, has aggravated the animosities of race; and the

animosities of race have rendered the political difference irreconcileable. No remedy can be efficient that does not operate upon both evils. At the root of the disorders of Lower Canada lies the conflict of the two races, which compose its population; until this is settled, no good government is practicable; for whether the political institutions be reformed or left unchanged, whether the powers of the Government be entrusted to the majority or the minority, we may rest assured, that while the hostility of the races continues, whichever of them is entrusted with power, will use it for partial purposes.

I HAVE described the contest between the French and English races in Lower Canada with minuteness, because it was my wish to produce a complete and general conviction of the prominent importance of that struggle, when we are taking into consideration the causes of those disorders which have so grievously afflicted the Province. I have not, however, during the course of my preceding remarks, been able to avoid alluding to other causes, which have greatly contributed to occasion the existing state of things; and I have specified among these the defects of the constitution, and the errors arising out of the system of government. It is, indeed, impossible to believe that the assigned causes of the struggle between the Government and the majority have had no effect, even though we may believe that they have had much less than the contending parties imagined. It is impossible to observe the great similarity of the constitutions established in all our North American Provinces, and the striking tendency of all to terminate in pretty nearly the same result, without entertaining a belief that some defect in the form of government, and some erroneous principle of administration, have been common to all; the hostility of the races being palpably insufficient to account for all the evils which have affected Lower Canada, inasmuch as nearly the same results have been exhibited among the homogeneous population of the other provinces. It is but too evident that Lower Canada, or the two Canadas, have not alone exhi-

bited repeated conflicts between the executive and the popular branches of the legislature. The representative body of Upper Canada was, before the late election, hostile to the policy of the Government; the most serious discontents have only recently been calmed in Prince Edward's Island and New Brunswick; the Government is still, I believe, in a minority in the Lower House in Nova Scotia; and the dissensions of Newfoundland are hardly less violent than those of the Canadas. It may fairly be said, that the natural state of government in all these Colonies is that of collision between the executive and the representative body. In all of them the administration of public affairs is habitually confided to those who do not co-operate harmoniously with the popular branch of the legislature; and the Government is constantly proposing measures which the majority of the Assembly reject, and refusing its assent to bills which that body has passed.

A state of things, so different from the working of any successful experiment of representative government, appears to indicate a deviation from sound constitutional principles or practice. Though occasional collisions between the Crown and the House of Commons have occurred in this country since the establishment of our constitution at the Revolution of 1688, they have been rare and transient. A state of frequent and lasting collisions appears almost identical with one of convulsion and anarchy; and its occurrence in any country is calculated to perplex us as to the mode in which any government can be carried on therein, without an entire evasion of popular control. But, when we examine into the system of government in these colonies, it would almost seem as if the object of those by whom it was established had been the combining of apparently popular institutions with an utter absence of all efficient control of the people over their rulers. Representative assemblies were established on the basis of a very wide, and, in some cases, almost universal suffrage; the annual meeting of these bodies was secured by positive enactment, and their apparent attributes were locally nearly as extensive as those of the English House of Commons. At the same time the Crown almost

entirely relied on its territorial resources, and on duties imposed by Imperial Acts, prior to the introduction of the representative system, for carrying on the government, without securing the assent of the representative body either to its policy, or to the persons by whom that policy was to be administered.

It was not until some years after the commencement of the present century that the population of Lower Canada began to understand the representative system which had been extended to them, and that the Assembly evinced any inclination to make use of its powers. Immediately, however, upon its so doing, it found how limited those powers were, and entered upon a struggle to obtain the authority which analogy pointed out as inherent in a representative assembly. Its freedom of speech immediately brought it into collision with the Governor; and the practical working of the Assembly commenced by its principal leaders being thrown into prison. In course of time, however, the Government was induced, by its necessities, to accept the Assembly's offer to raise an additional revenue by fresh taxes; and the Assembly thus acquired a certain control over the levying and appropriation of a portion of the public revenue. From that time, until the final abandonment in 1832 of every portion of the reserved revenue, excepting the casual and territorial funds, an unceasing contest was carried on, in which the Assembly, making use of every power which it gained for the purpose of gaining more, acquired, step by step, an entire control over the whole revenue of the country.

I pass thus briefly over the events which have heretofore been considered the principal features of the Canadian controversy, because, as the contest has ended in the concession of the financial demands of the Assembly, and the admission by the Government of the impropriety of attempting to withhold any portion of the public revenues from its control, that contest can now be regarded as of no importance, except as accounting for the exasperation and suspicion which survived it. Nor am I inclined to think that the disputes which subsequently occurred are to be attributed

entirely to the operation of mere angry feelings. A substantial cause of contest yet remained. The Assembly, after it had obtained entire control over the public revenues, still found itself deprived of all voice in the choice or even designation of the persons in whose administration of affairs it could feel confidence. All the administrative power of Government remained entirely free from its influence; and though Mr. Papineau appears by his own conduct to have deprived himself of that influence in the Government which he might have acquired, I must attribute the refusal of a civil list to the determination of the Assembly not to give up its only means of subjecting the functionaries of Government to any responsibility.

The powers for which the Assembly contended, appear in both instances to be such as it was perfectly justified in demanding. It is difficult to conceive what could have been their theory of government who imagined that in any colony of England a body invested with the name and character of a representative Assembly could be deprived of any of those powers, which, in the opinion of Englishmen, are inherent in a popular legislature. It was a vain delusion to imagine, that by mere limitations in the Constitutional Act, or an exclusive system of government, a body, strong in the consciousness of wielding the public opinion of the majority, could regard certain portions of the provincial revenues as sacred from its control, could confine itself to the mere business of making laws, and look on as a passive or indifferent spectator, while those laws were carried into effect or evaded, and the whole business of the country was conducted by men, in whose intentions or capacity it had not the slightest confidence. Yet such was the limitation placed on the authority of the Assembly of Lower Canada; it might refuse or pass laws, vote or withhold supplies, but it could exercise no influence on the nomination of a single servant of the Crown. The Executive Council, the law officers, and whatever heads of departments are known to the administrative system of the Province, were placed in power, without any regard to the wishes of the people or their representatives; nor indeed

are there wanting instances in which a mere hostility to the majority of the Assembly elevated the most incompetent persons to posts of honour and trust. However decidedly the Assembly might condemn the policy of the Government, the persons who had advised that policy, retained their offices and their power of giving bad advice. If a law was passed after repeated conflicts, it had to be carried into effect by those who had most strenuously opposed it. The wisdom of adopting the true principle of representative government, and facilitating the management of public affairs, by entrusting it to the persons who have the confidence of the representative body, has never been recognized in the government of the North American Colonies. All the officers of government were independent of the Assembly; and that body, which had nothing to say to their appointment, was left to get on as it best might, with a set of public functionaries, whose paramount feeling may not unfairly be said to have been one of hostility to itself.

A body of holders of office thus constituted, without reference to the people or their representatives, must in fact, from the very nature of colonial government, acquire the entire direction of the affairs of the Province. A Governor, arriving in a colony in which he almost invariably has had no previous acquaintance with the state of parties, or the character of individuals, is compelled to throw himself almost entirely upon those whom he finds placed in the position of his official advisers. His first acts must necessarily be performed, and his first appointments made, at their suggestion. And as these first acts and appointments give a character to his policy, he is generally brought thereby into immediate collision with the other parties in the country, and thrown into more complete dependence upon the official party and its friends. Thus, a Governor of Lower Canada has almost always been brought into collision with the Assembly, which his advisers regard as their enemy. In the course of the contest in which he was thus involved, the provocations which he received from the Assembly, and the light in which their conduct was represented by those who alone had any access to him, naturally

imbued him with many of their antipathies; his position compelled him to seek the support of some party against the Assembly; and his feelings and his necessities thus combined to induce him to bestow his patronage and to shape his measures to promote the interests of the party on which he was obliged to lean. Thus, every successive year consolidated and enlarged the strength of the ruling party. Fortified by family connection, and the common interest felt by all who held, and all who desired, subordinate offices, that party was thus erected into a solid and permanent power, controlled by no responsibility, subject to no serious change, exercising over the whole government of the Province an authority utterly independent of the people and its representatives, and possessing the only means of influencing either the Government at home, or the colonial representative of the Crown.

This entire separation of the legislative and executive powers of a State, is the natural error of governments desirous of being free from the check of representative institutions. Since the Revolution of 1688, the stability of the English constitution has been secured by that wise principle of our Government, which has vested the direction of the national policy, and the distribution of patronage, in the leaders of the Parliamentary majority. However partial the Monarch might be to particular ministers, or however he might have personally committed himself to their policy, he has invariably been constrained to abandon both, as soon as the opinion of the people has been irrevocably pronounced against them through the medium of the House of Commons. The practice of carrying on a representative government on a different principle, seems to be the rock on which the continental imitations of the British Constitution have invariably split; and the French Revolution of 1830 was the necessary result of an attempt to uphold a ministry with which no Parliament could be got to act in concert. It is difficult to understand how any English statesmen could have imagined that representative and irresponsible government could be successfully combined. There seems, indeed, to be an idea, that the character of representative institutions

ought to be thus modified in colonies; that it is an incident of colonial dependence, that the officers of government should be nominated by the Crown, without any reference to the wishes of the community, whose interests are entrusted to their keeping. It has never been very clearly explained what are the imperial interests, which require this complete nullification of representative government. But if there be such a necessity, it is quite clear that a representative government in a colony must be a mockery, and a source of confusion. For those who support this system have never yet been able to devise, or to exhibit in the practical working of colonial government, any means for making so complete an abrogation of political influence palatable to the representative body. It is not difficult to apply the case to our own country. Let it be imagined that at a general election the Opposition were to return 500 out of 658 members of the House of Commons, and that the whole policy of the ministry should be condemned, and every Bill introduced by it, rejected by this immense majority. Let it be supposed that the Crown should consider it a point of honour and duty to retain a ministry so condemned and so thwarted; that repeated dissolutions should in no way increase, but should even diminish, the ministerial minority, and that the only result which could be obtained by such a development of the force of the Opposition, were not the slightest change in the policy of the ministry, not the removal of a single minister, but simply the election of a Speaker of the politics of the majority; and, I think, it will not be difficult to imagine the fate of such a system of government. Yet such was the system, such literally was the course of events in Lower Canada, and such in character, though not quite in degree, was the spectacle exhibited in Upper Canada, and, at one time or another, in every one of the North American Colonies. To suppose that such a system would work well there, implies a belief that the French Canadians have enjoyed representative institutions for half a century, without acquiring any of the characteristics of a free people; that Englishmen renounce every political opinion and feeling when they enter a colony, or that the spirit of Anglo-Saxon

freedom is utterly changed and weakened among those who are transplanted across the Atlantic.

It appears, therefore, that the opposition of the Assembly to the Government was the unavoidable result of a system which stinted the popular branch of the legislature of the necessary privileges of a representative body, and produced thereby a long series of attempts on the part of that body to acquire control over the administration of the Province. I say all this without reference to the ultimate aim of the Assembly, which I have before described as being the maintenance of a Canadian nationality against the progressive intrusion of the English race. Having no responsible ministers to deal with, it entered upon that system of long inquiries by means of its committees, which brought the whole action of the executive immediately under its purview, and transgressed our notions of the proper limits of Parliamentary interference. Having no influence in the choice of any public functionary, no power to procure the removal of such as were obnoxious to it merely on political grounds, and seeing almost every office of the Colony filled by persons in whom it had no confidence, it entered on that vicious course of assailing its prominent opponents individually, and disqualifying them for the public service, by making them the subjects of inquiries and consequent impeachments, not always conducted with even the appearance of a due regard to justice; and when nothing else could attain its end of altering the policy or the composition of the colonial government, it had recourse to that *ultima ratio* of representative power to which the more prudent forbearance of the Crown has never driven the House of Commons in England, and endeavoured to disable the whole machine of Government by a general refusal of the supplies.

It was an unhappy consequence of the system which I have been describing, that it relieved the popular leaders of all the responsibilities of opposition. A member of opposition in this country acts and speaks with the contingency of becoming a minister constantly before his eyes, and he feels, therefore, the necessity of proposing no course, and of asserting no principles, on which he would not be prepared

to conduct the Government, if he were immediately offered it. But the colonial demagogue bids high for popularity without the fear of future exposure. Hopelessly excluded from power, he expresses the wildest opinions, and appeals to the most mischievous passions of the people, without any apprehension of having his sincerity or prudence hereafter tested, by being placed in a position to carry his views into effect; and thus the prominent places in the ranks of opposition are occupied for the most part by men of strong passions, and merely declamatory powers, who think but little of reforming the abuses which serve them as topics for exciting discontent.

The collision with the executive government necessarily brought on one with the Legislative Council. The composition of this body, which has been so much the subject of discussion both here and in the Colony, must certainly be admitted to have been such as could give it no weight with the people, or with the representative body, on whom it was meant to be a check. The majority was always composed of members of the party which conducted the executive government; the clerks of each Council were members of the other; and, in fact, the Legislative Council was practically hardly any thing but a veto in the hands of public functionaries on all the acts of that popular branch of the legislature in which they were always in a minority. This veto they used without much scruple. I am far from concurring in the censure which the Assembly and its advocates have attempted to cast on the acts of the Legislative Council. I have no hesitation in saying that many of the Bills which it is most severely blamed for rejecting, were Bills which it could not have passed without a dereliction of its duty to the constitution, the connection with Great Britain, and the whole English population of the Colony. If there is any censure to be passed on its general conduct, it is for having confined itself to the merely negative and defensive duties of a legislative body; for having too frequently contented itself with merely defeating objectionable methods of obtaining desirable ends, without completing its duty by proposing measures, which would have achieved the good in view

without the mixture of evil. The national animosities which pervaded the legislation of the Assembly, and its thorough want of legislative skill or respect for constitutional principles, rendered almost all its Bills obnoxious to the objections made by the Legislative Council; and the serious evil which their enactment would have occasioned, convinces me that the Colony has reason to congratulate itself on the existence of an institution which possessed and used the power of stopping a course of legislation, that, if successful, would have sacrificed every British interest, and overthrown every guarantee of order and national liberty. It is not difficult for us to judge thus calmly of the respective merits of these distant parties; but it must have been a great and deep-rooted respect for the constitution and composition of the Legislative Council, that could have induced the representatives of a great majority to submit with patience to the impediment thus placed in their way by a few individuals. But the Legislative Council was neither theoretically unobjectionable, nor personally esteemed by the Assembly; its opposition appeared to that body but another form of official hostility, and it was inevitable that the Assembly should, sooner or later, make those assaults on the constitution of the Legislative Council which, by the singular want of judgment and temper with which they were conducted, ended in the destruction of the Provincial Constitution.

From the commencement, therefore, to the end of the disputes which mark the whole Parliamentary history of Lower Canada, I look on the conduct of the Assembly as a constant warfare with the executive, for the purpose of obtaining the powers inherent in a representative body by the very nature of representative government. It was to accomplish this purpose, that it used every means in its power; but it must be censured for having, in pursuit of this object, perverted its powers of legislation, and disturbed the whole working of the constitution. It made the business of legislation, and the practical improvement of the country, subordinate to its struggle for power; and, being denied its legitimate privileges, it endeavoured to extend its authority in modes

totally incompatible with the principles of constitutional liberty.

One glaring attempt which was made directly and openly to subvert the constitution of the country, was, by passing a Bill for the formal repeal of those parts of the 31 Geo. 3, c. 31, commonly called the Constitutional Act, by which the constitution and powers of the Legislative Council were established. It can hardly be supposed that the framers of this Bill were unaware, or hoped to make any concealment of the obvious illegality of a measure, which, commencing, as all Canadian Acts do, by a recital of the 31 Geo. 3, as the foundation of the legislative authority of the Assembly, proceeded immediately to infringe some of the most important provisions of that very statute; nor can it be supposed that the Assembly hoped really to carry into effect this extraordinary assumption of power, inasmuch as the Bill could derive no legal effect from passing the Lower House, unless it should subsequently receive the assent of the very body which it purported to annihilate.

A more dangerous, because, in some measure, more effectual device for assuming unconstitutional powers, was practised by the Assembly in its attempts to evade the necessity of obtaining the assent of the other branches of the legislature, by claiming for its own resolutions, and that, too, on points of the greatest importance, the force of laws. A remarkable instance of this was exhibited in the Resolution which the Assembly passed on the rejection of a Bill for vacating the seats of Members on the acceptance of offices under the Crown; and which, in fact, and undisguisedly, purported, by its own single authority, to give effect to the provisions of the rejected Bill. This resolution brought the Assembly into a long dispute with Lord Aylmer, in consequence of his refusing to issue a writ for the election of a member in place of Mr. Mondelet, whose seat was declared vacant in consequence of his having accepted the office of executive councillor. The instance in which the Assembly thus attempted to enforce this principle of disqualification, happened to be one to which it could not be considered

applicable, either from analogy to the law of England, or from the apparent intent of the Resolution itself; for the office which Mr. Mondelet accepted, though one of high importance and influence, was one to which no salary or emolument of any kind was attached.

But the evils resulting from such open attempts to dispense with the constitution were small, in comparison with the disturbance of the regular course of legislation by systematic abuse of constitutional forms, for the purpose of depriving the other branches of the legislature of all real legislative authority. The custom of passing the most important laws in a temporary form, has been an ancient and extensive defect of the legislation of the North American Colonies, partially authorized by royal instructions to the Governors, but never sanctioned by the Imperial Legislature, until it was established in Lower Canada by the 1st Vict. c. 9. It remained, however, for the Assembly of Lower Canada to reduce the practice to a regular system, in order that it might have the most important institutions of the Province periodically at its mercy, and use the necessities of the Government and the community for the purpose of extorting the concession of whatever demands it might choose to make. Objectionable in itself, on account of the uncertainty and continual changes which it tended to introduce into legislation, this system of temporary laws derived its worst character from the facilities which it afforded to the practice of "tacking" together various legislative measures; a practice not unknown to the British constitution, and which has sometimes been found useful, because the prudence of the House of Commons has induced that body rarely to have recourse to it, but which the legislators of Lower Canada converted into the ordinary mode of legislation. By the abuse of this practice, any branch of the legislature had, during every session, the power, if it had the inclination, to make the renewal of expiring laws the means of dictating its own terms to the others; and to this end it was systematically converted by the Assembly. It adopted the custom of renewing all expiring laws, however heterogeneous in their character, in

one and the same Bill. Having the first choice to exercise, it renewed, of course, only those acts of which it approved, and left to the Legislative Council and the Governors only the alternative of rejecting such as had proved to be beneficial, or of passing such as, in their opinion, had proved to be mischievous. A singular instance of this occurred in 1836 with respect to the renewal of the Jury Law, to which the Assembly attached great importance, and to which the Legislative Council felt a strong repugnance, on account of its having in effect placed the juries entirely in the hands of the French portion of the population. In order to secure the renewal of this law, the Assembly coupled it in the same Bill by which it renewed the tolls of the Lachine Canal, calculating on the Council not venturing to defeat a measure of so much importance to the revenue as the latter, by resisting the former. The Council, however, rejected the Bill; and thus the Canal remained toll-free for a whole season, because the two Houses differed about a jury law.

Nor was this custom of "tacking," confined to the case of the renewal of expiring laws. A Bill for the independence of the Judges was coupled with the establishment of a new tribunal for trying impeachments, and with other provisions, to which it was known that the Crown was decidedly hostile; and thus, in the attempt to extort an objectionable concession, a most desirable guarantee for the pure administration of justice was sacrificed.

The system thus framed, was completed by the regulations with respect to a quorum, and the use which the majority made of them. A quorum of nearly half the whole House was required for the transaction of business. Towards the end of every recent session, the majority used to break up the quorum, and disperse to their respective homes, without waiting to be prorogued, immediately after sending up a number of Bills to the Council, thus leaving no means of considering or adopting any amendments which that body might make, and leaving it no option but that of rejecting or confirming by wholesale the measures of the Assembly.

But in describing the means by which the Assembly obtained, and attempted to consolidate its power, I must not

omit to direct particular attention to that which, after all, was the most effectual, and which originated in a defect common to the system of government in all the North American Colonies; it is, the practice of making Parliamentary grants for local works,—a system so vicious, and so productive of evil, that I believe that until it is entirely eradicated, representative government will be incapable of working well and smoothly in those Colonies.

I know, indeed, of no difference in the machinery of government in the old and new world that strikes an European more forcibly than the apparently undue importance which the business of constructing public works appears to occupy in American legislation. In speaking of the character of a government, its merits appear to be estimated by the public works which it has carried into effect. If an individual is asked how his own legislature has acted, he will generally say what roads or bridges it has made, or neglected to make, in his own district; and if he is consulted about changes in a constitution, he seems to try their soundness by calculating whether his neighbourhood would get more and better roads and bridges under the existing, or the proposed system. On examining the proceedings of a legislature, we find that a great proportion of its discussions turns on such questions; and if we look to the budget, we find that a still greater proportion of the public money is applied to these purposes. Those who reflect on the circumstances of the New World, will not find it very difficult to account for the attention there paid, to what is, necessarily, the first business of society, and is naturally made the first care of every responsible government. The provision which, in Europe, the State makes for the protection of its citizens against foreign enemies, is in America required for what a French writer has beautifully and accurately called, the "war with the wilderness." The defence of an important fortress, or the maintenance of a sufficient army or navy in exposed spots, is not more a matter of common concern to the European, than is the construction of the great communications to the American settler; and the State, very naturally, takes on itself the making of the works, which are matters of concern to all alike.

Even the municipal institutions of the northern States of the American Union have not entirely superseded the necessity of some interference on the part of their legislatures in aid of local improvements, though the main efforts of those States have been directed to those vast undertakings which are the common concern and the common glory of their citizens. In the southern States, where municipal institutions are less complete, the legislatures are in the habit of taking part more constantly and extensively in works which are properly of mere local interest; and great complaints are made of consequent corruption and mismanagement. But in the British Colonies, in none of which is there any effectual system of municipal government, the evil has been carried to the greatest height, and exercises the most noxious influence. The great business of the assemblies is literally parish business; the making parish roads and parish bridges. There are in none of these Provinces any local bodies possessing authority to impose local assessments, for the management of local affairs. To do these things is the business of the Assembly; and to induce the Assembly to attend to the particular interests of each county, is the especial business of its county member. The surplus revenue of the Province is swelled to as large an amount as possible, by cutting down the payment of public services to as low a scale as possible; and the real duties of government are, sometimes, insufficiently provided for, in order that more may be left to be divided among the constituent bodies. "When we want a bridge, we take a judge to build it," was the quaint and forcible way in which a member of a provincial legislature described the tendency to retrench, in the most necessary departments of the public service, in order to satisfy the demands for local works. This fund is voted by the Assembly on the motion of its members; the necessity of obtaining the previous consent of the Crown to money votes never having been adopted by the Colonial Legislatures from the practice of the British House of Commons. There is a perfect scramble among the whole body to get as much as possible of this fund for their respective constituents; cabals are formed, by which the different members mutually play into each other's hands; general politics are

made to bear on private business, and private business on general politics; and at the close of the parliament, the member who has succeeded in securing the largest portion of the prize for his constituents, renders an easy account of his stewardship, with confident assurance of re-election.

The Provincial Assemblies being, as I have previously stated, in a state of permanent collision with the Government, have never been in the habit of entrusting the executive with any control over these funds; and they have been wholly dispensed by commissioners named by the legislature. The Assemblies do not appear to have been at all insensible to the possibility of turning this patronage to their own account. An electioneering hand bill, which was circulated by the friends of Government at the last dissolution in Upper Canada, exhibited in a very strong light the expense of the commissioners of the Assembly, contrasted with those of the officers of the executive government; but the Province of Nova Scotia has carried this abuse to an extent which appears almost inconceivable. According to a report presented to me by Major Head, an assistant commissioner of inquiry whom I sent to that Colony, a sum of 10,000*l.* was, during the last session, appropriated to local improvements; this sum was divided into 830 portions, and as many commissioners were appointed to expend it, giving, on an average, a commissioner for rather more than every 12*l.*, with a salary of 5*s.* a day, and a further remuneration of two and a half per cent. on the money expended, to be deducted out of each share.

Not only did the leaders of the Lower Canadian Assembly avail themselves of the patronage thus afforded, by the large surplus revenue of the Province, but they turned this system to much greater account, by using it to obtain influence over the constituencies. In a furious political struggle, like that which subsisted in Lower Canada, it was natural that a body, wielding, with hardly any responsibility, this direct power of promoting the immediate interests of each constituency, should show some favour to that which concurred in its political views, and should exhibit its displeasure towards that which obstinately resisted the majority. But the majority of the Assembly of Lower Canada is accused by its opponents of

having, in the most systematic and persevering manner, employed this means of corrupting the electoral bodies. The adherents of Mr. Papineau are said to have been lavish in their promises of the benefits which they could obtain from the Assembly for the county whose suffrages they solicited. By such representations, the return of members of opposition politics is asserted, in many instances, to have been secured; and obstinate counties are alleged to have been sometimes starved into submission, by an entire withdrawal of grants until they returned members favourable to the majority. Some of the English members who voted with Mr. Papineau, excused themselves to their countrymen by alleging, that they were compelled to do so, in order to get a road or a bridge, which their constituents desired. Whether it be true or false that the abuse was ever carried to such a pitch, it is obviously one, which might have been easily and safely perpetrated by a person possessing Mr. Papineau's influence in the Assembly.

But the most bold and extensive attempt for erecting a system of patronage, wholly independent of the Government, was that which was, for some time, carried into effect by the grants for education made by the Assembly, and regulated by the Act, which the Legislative Council has been most bitterly reproached with refusing to renew. It has been stated, as a proof of the deliberate intention of the Legislative Council to crush every attempt to civilize and elevate the great mass of the people, that it thus stopped at once the working of about 1,000 schools, and deprived of education no less than 40,000 scholars, who were actually profiting by the means of instruction thus placed within their reach. But the reasons which induced, or rather compelled, the Legislative Council to stop this system, are clearly stated in the Report of that body, which contains the most unanswerable justification of the course which it pursued. By that it appears, that the whole superintendence and patronage of these schools had, by the expired law, been vested in the hands of the county Members; and that they had been allowed to manage the funds, without even the semblance of sufficient accountability. The Members of the Assembly had thus a patronage, in this single department, of about 25,000*l.* per annum, an amount equal to

half of the whole ordinary civil expenditure of the Province. They were not slow in profiting by the occasion thus placed in their hands; and as there existed in the Province no sufficient supply of competent schoolmasters and mistresses, they nevertheless immediately filled up the appointments with persons who were utterly and obviously incompetent. A great proportion of the teachers could neither read nor write. The gentleman whom I directed to inquire into the state of education in the Province, showed me a petition from certain schoolmasters, which had come into his hands; and the majority of the signatures were those of marksmen. These ignorant teachers could convey no useful instruction to their pupils; the utmost amount which they taught them was to say the Catechism by rote. Even within seven miles of Montreal, there was a schoolmistress thus unqualified. These appointments were, as might have been expected, jobbed by the members among their political partisans; nor were the funds very honestly managed. In many cases the members were suspected, or accused, of misapplying them to their own use; and in the case of Beauharnois, where the seigneur, Mr. Ellice, has, in the same spirit of judicious liberality by which his whole management of that extensive property has been marked, contributed most largely towards the education of his tenants, the school funds were proved to have been misappropriated by the county member. The whole system was a gross political abuse; and however laudable we must hold the exertions of those who really laboured to relieve their country from the reproach of being the least furnished with the means of education of any on the North American continent, the more severely must we condemn those who sacrificed this noble end, and perverted ample means to serve the purposes of party.

I know not whether to ascribe the system which was adopted for the relief of the distress periodically occurring in certain districts to the same policy of extending the influence of the Assembly by local grants, or merely to the antiquated prejudices which seem to have pervaded many parts of the Assembly's legislation, which dictated laws against hucksters and the maintenance of foundling hospitals. No general

system for the relief of destitution, no poor-law of any kind was established, and the wants of the country hardly demanded it. But when I arrived at Quebec, I received a number of petitions from parishes situated on the lower part of the St. Lawrence, praying for relief, in consequence of the failure of the harvest. I found, on inquiry, that relief had been granted to these districts for several successive years. The cause of the calamity was obvious; it was the unsuitableness of wheat crops under the wretched system of Canadian small farming, to the severe climate of that portion of the Province. By the side of the distressed parishes were large districts, in which a better system of farming, and, above all, the employment of the land for pasture and green crops, had diffused the most general comfort among the agricultural population, and completely obviated the occurrence of failure or distress. There were, in the vicinity of the distressed parishes, large tracts of rich and unsettled land, available for the permanent amelioration of the condition of this suffering people; and there were valuable and extensive fisheries in the neighbourhood, which might have supported it in comfort; yet no persevering attempt had been made to provide permanent relief by encouraging the population, which was thus thrown on the legislature for support, either to adopt a better system of agriculture, or to settle on other portions of the country, or to avail itself of the fisheries. The Assembly met the evil by relieving the distress in such a way as to stave off its immediate results, and ensure its recurrence. It gave food for the season of scarcity, and seed to sow a crop even of wheat as late as the 20th of June, which was of course to fail in its turn; for it had thus relieved the same kind of distress, in precisely the same places, for several successive years; and its policy seemed to be to pension a portion of the people to sow wheat where it would not ripen.

It is melancholy to think of the opportunities of good legislation which were sacrificed in this mere contest for power. No country in the world ever demanded from a paternal government, or patriotic representatives, more unceasing and vigorous reforms, both of its laws and its administrative

system. Lower Canada had, when we received it at the conquest, two institutions, which alone preserved the semblance of order and civilization in the community,—the Catholic church and the militia, which was so constituted and used, as partially to supply the want of better civil institutions. The beneficial influence of the Catholic church has been cramped and weakened; the militia is now annihilated, and years must elapse ere it can be revived and used to any good purpose. Lower Canada remains without municipal institutions of local self government, which are the foundations of Anglo-Saxon freedom and civilization; nor is their absence compensated by any thing like the centralization of France. The most defective judicial institutions remain unreformed. Alone, among the nations that have sprung from the French, Lower Canada remains under the unchanged civil laws of ancient France. Alone, among the nations of the American Continent, it is without a public system of education. Nor has it, in other respects, caught the spirit of American progress. While the Assembly was wasting the surplus revenues of the Province in jobs for the increase of patronage, and in petty peddling in parochial business, it left untouched those vast and easy means of communication, which deserved, and would have repaid the application of the provincial revenues. The state of New York made its own St. Lawrence from Lake Erie to the Hudson, while the Government of Lower Canada could not achieve, or even attempt the few miles of canal and dredging, which would have rendered its mighty rivers navigable almost to their sources. The time which should have been devoted to wise legislation, was spent in a contest for power between the executive and the people, which a wise executive would have stopped at the outset, by submitting to a legitimate responsibility, and which a wise people would have ceased to press when it had virtually attained its end. This collision, and the defective constitution, were, in conjunction with the quarrel of the races, the causes of the mischiefs which I have detailed. It will be a ground, I trust, of permanent congratulation, that the contest terminated in the destruction of the impracticable constitution, which caused the strife; nor can I conceive any course of conduct which could so effectually have destroyed the previous system of mis-

management, and cleared the ground for future improvement, as that continued stoppage of supplies which the Assembly in its intemperance effected. It broke down at once the whole of that vicious appropriation of public funds, which was the great bane of provincial legislation, and has left the abuses of the Colony so long unfed, that a reforming Government may hereafter work upon an unencumbered soil.

The inevitable result of the animosities of race, and of the constant collision of the different powers of the State, which I have described, was a thorough disorganization of the institutions and administrative system of the country. I do not think that I necessarily cast any stigma on my predecessors in Lower Canada, or on the uniform good intentions which the Imperial Government has clearly evinced towards every class, and every race in the Colony, when I assert, that a country which has been agitated by these social and political dissensions, has suffered under great misgovernment. The blame rests not on individuals, but on the vicious system, which has generated the manifold and deep-rooted abuses that pervade every department of the public service, and constitute the real grievances of the Colony. These grievances are common to the whole people of Lower Canada; and it is not one race, or one party only, that suffers by their existence; they have hindered the prosperity, and endangered the security of all; though, unquestionably, the interests which have most materially been retarded by misgovernment, are the English. From the highest to the lowest officers of the executive government, no important department is so organized as to act vigorously and completely, throughout the Province; and every duty which a government owes to its subjects is imperfectly discharged.

The defective system of administration in Lower Canada, commences at the very source of power; and the efficiency of the public service is impaired throughout, by the entire want in the Colony of any vigorous administration of the prerogative of the Crown. The fact is, that, according to the present system, there is no real representative of the Crown in the Province; there is in it, literally, no power which originates and conducts the executive government. The Governor, it is true, is said to represent the Sovereign, and the authority of

the Crown is, to a certain extent, delegated to him; but he is, in fact, a mere subordinate officer, receiving his orders from the Secretary of State, responsible to him for his conduct, and guided by his instructions. Instead of selecting a Governor, with an entire confidence in his ability to use his local knowledge of the real state of affairs in the Colony in the manner which local observation and practical experience best prescribe to him, it has been the policy of the Colonial Department, not only at the outset to instruct a Governor as to the general policy which he was to carry into effect, but to direct him, from time to time, by instructions, sometimes very precise, as to the course which he was to pursue, in every important particular of his administration. Theoretically irresponsible to the Colonial Legislature, the Governor was, in effect, the only officer in the Colony who was at all responsible; inasmuch as the Assembly, by centring their attacks on him, and making him appear the sole cause of the difficulties of the Government, could occasion him so much vexation, and represent him in so unfavourable a light at home, that it frequently succeeded in imposing on him the necessity of resigning, or on the Colonial Minister, that of recalling him. In order to shelter himself from this responsibility, it has inevitably, and I must say very justifiably, been the policy of Governors to take care that the double responsibility shall be as light as possible; to endeavour to throw it, as much as possible, on the home government, and to do as little as possible without previously consulting the Colonial Minister at home, and receiving his instructions. It has, therefore, been the tendency of the local government to settle every thing by reference to the Colonial Department, in Downing-street. Almost every question on which it was possible to avoid, even with great inconvenience, an immediate decision, has been habitually the subject of reference; and this applies not merely to those questions on which the local executive and legislative bodies happened to differ, wherein the reference might be taken as a kind of appeal, but to questions of a strictly local nature, on which it was next to impossible for the Colonial Office to have any sufficient information. It had become the habit of the Colonial Office to originate these

questions, to entertain applications from individuals, to refer these applications to the Governor, and, on his answer, to make a decision. The Governor has been enabled by this system to shift responsibility on the Colonial Office, inasmuch as in every important case he was, in reality, carrying into effect the order of the authority to which he was responsible. But the real vigour of the executive has been essentially impaired; distance and delay have weakened the force of its decisions; and the Colony has, in every crisis of danger, and almost every detail of local management, felt the mischief of having its executive authority exercised on the other side of the Atlantic.

Nor has any thing been gained, either in effectual responsibility or sound information, by thus transferring the details of executive government to the Colonial Department at home. The complete and unavoidable ignorance in which the British public, and even the great body of its legislators, are with respect to the real interests of distant communities, so entirely different from their own, produces a general indifference, which nothing but some great colonial crisis ever dispels; and responsibility to Parliament, or to the public opinion of Great Britain, would, except on these great and rare occasions, be positively mischievous, if it were not impossible. The repeated changes caused by political events at home having no connection with colonial affairs, have left, to most of the various representatives of the Colonial Department in Parliament, too little time to acquire even an elementary knowledge of the condition of those numerous and heterogeneous communities for which they have had both to administer and legislate. The persons with whom the real management of these affairs has or ought to have rested, have been the permanent but utterly irresponsible members of the office. Thus the real government of the Colony has been entirely dissevered from the slight nominal responsibility which exists. Apart even from this great and primary evil of the system, the pressure of multifarious business thus thrown on the Colonial office, and the repeated changes of its ostensible directors, have produced disorders in the management of public business which have occasioned serious mischief, and

very great irritation. This is not my own opinion merely; for I do but repeat that of a Select Committee of the present House of Assembly in Upper Canada, who, in a Report dated February 8, 1838, say, "It appears to your Committee, that one of the chief causes of dissatisfaction with the administration of colonial affairs arises from the frequent changes in the office of Secretary of State, to whom the Colonial department is entrusted. Since the time the late Lord Bathurst retired from that charge, in 1827, your Committee believe there have not been less than eight Colonial Ministers, and that the policy of each successive statesman has been more or less marked by a difference from that of his predecessor. This frequency of change in itself almost necessarily entails two evils; *first*, an imperfect knowledge of the affairs of the Colonies on the part of the Chief Secretary, and the consequent necessity of submitting important details to the subordinate officers of the department: and, *second*, the want of stability and firmness in the general policy of the Government, and which, of course, creates much uneasiness on the part of the Governors, and other officers of the Colonies, as to what measures may be approved.

"But undoubtedly" (continues the Report) "by far the greatest objection to the system is, the impossibility it occasions of any Colonial Minister, unaided by persons possessing local knowledge, becoming acquainted with the wants, wishes, feelings, and prejudices of the inhabitants of the Colonies, during his temporary continuance in office, and of deciding satisfactorily upon the conflicting statements and claims that are brought before him. A firm, unflinching resolution to adhere to the principles of the constitution, and to maintain the just and necessary powers of the Crown, would do much towards supplying the want of local information. But it would be performing more than can be reasonably expected from human sagacity, if any man, or set of men, should always decide in an unexceptionable manner on subjects that have their origin thousands of miles from the seat of the Imperial Government, where they reside, and of which they have no personal knowledge whatever; and therefore wrong may be often done to individuals, or a false view taken of some impor-

tant political question, that in the end may throw a whole community into difficulty and dissension, not from the absence of the most anxious desire to do right, but from an imperfect knowledge of facts upon which to form an opinion.

"To these objections" (adds the Report) "it may be answered, that although the Chief Secretary of State retires with a change of ministers, the Under Secretaries (or at least one of them) and the other subordinate officers of the department, remain and hold their offices permanently, and therefore information upon all subjects can be readily imparted to the superior by the gentlemen who are thus retained; and it may be admitted that the knowledge of this fact ought to lessen the force of the objections that rest on other grounds; but it cannot be disguised that there is a growing impatience and unwillingness on the part of the Colonists, especially in these extensive Provinces, to have the measures of Government, whether connected with their general system of government, legislation, or patronage, controlled by persons who are utter strangers to them, not responsible in any way to themselves or the British Parliament, and who perhaps, being advanced to their office from length of service, or other like cause, are not regarded as competent (perhaps unjustly) to manage and direct measures which they (the Colonists) deem of vital importance. Much of this feeling may be traced to pride; but it is a pride that springs from an honourable and laudable feeling, and always accompanies self-respect, true patriotism, and love of country, and it therefore ought not to be disregarded, nor should any attempt be made to lessen or control it, if it were possible to do so. But the imperfection that exists in the system of colonial government that prevails in England, is rendered more apparent by the want of that confidence that ought to be reposed in the distinguished officers, who from time to time are commissioned as Governors to different Colonies, than by any other fact that can be distinctly pointed out."

I will now only point out one instance of these evils, and I select it because it is an instance occurring in relation to the most important function of the executive; namely, its exercise of the legislative prerogative of the Crown, and because

its existence has been admitted by the present Secretary of State for the Colonies, in his instructions to my predecessor, Lord Gosford—I mean the reservation of Bills for the Royal Assent. The "too frequent reservation of Bills" is a "grievance," says his Lordship, "of which my inquiries lead me to believe the reality." And in a subsequent part of the same Despatch, his Lordship admits, that, owing to this cause, great mischief has been done, by the wholly unintentional delay in giving the Royal Assent to some perfectly unobjectionable Bills, having for their object the endowment of colleges by benevolent persons. This delay his Lordship describes as "chiefly attributable to political events, and the consequent changes of the Colonial Administration at home." I know not to what cause is to be attributed a delay, which produced, with respect to another Bill, the still more serious effect of a doubt of its legality, after it had been considered and acted on as law. This Bill* was reserved; and the Royal Assent was so long delayed, through mere inadvertence, that when it was sent out to the Colony as an Act, the question was raised whether the Royal Assent had been delayed beyond the two years allowed by law, and whether, having been so delayed, it was valid.

One of the greatest of all the evils arising from this system of irresponsible government, was the mystery in which the motives and actual purposes of their rulers were hid from the colonists themselves. The most important business of Government was carried on, not in open discussions or public acts, but in a secret correspondence between the Governor and the Secretary of State. Whenever this mystery was dispelled, it was long after the worst effects had been produced by doubt and misapprehension; and the Colonies have been frequently the last to learn the things that most concerned them, by the publication of papers on the order of the British Houses of Parliament.

The Governor, thus slightly responsible, and invested with functions so ill-defined, found himself at the head of a system,

* The 9 and 10 Geo. 4, c. 77. The period began to run in March 1829, and the Royal Assent was not given till May 1831.

in which all his advisers and subordinates had still less responsibility, and duties still less defined. Disqualified at first by want of local information, and very often, subsequently, by an entire absence of all acquaintance with the business of civil government, the Governor, on his arrival in the Colony, found himself under the necessity of being, in many respects, guided by the persons whom he found in office. In no country, therefore, could there be a greater necessity for a proper demarcation of the business of each public officer, and of a greater responsibility resting on each. Now, I do not at all exaggerate the real state of the case when I assert, that there is no head of any of the most important departments of public business in the Colony. The limited powers of the local government in a Colony necessarily obviate the necessity of any provision for some of the most important departments, which elsewhere require a superintending mind. But the mere ordinary administration of justice, police, education, public works and internal communications, of finance and of trade, would require the superintendence of persons competent to advise the Governor, on their own responsibility, as to the measures which should be adopted; and the additional labours which fall on the heads of such departments in other countries, in devising improvements of the system and the laws relating to each, would certainly afford additional occupation, growing out of the peculiarly defective legislation and administration of Lower Canada. Yet, of no one of these departments is there any responsible head, by whose advice the Governor may safely be guided. There are some subordinate and very capable officers in each department, from whom he is, in fact, compelled to get information from time to time. But there is no one to whom he, or the public, can look for the correct management and sound decision on the policy of each of these important departments.

The real advisers of the Governor have, in fact, been the Executive Council; and an institution more singularly calculated for preventing the responsibility of the acts of Government resting on any body, can hardly be imagined. It is a body, of which the constitution somewhat resembles that of the Privy Council; it is bound by a similar oath of secresy;

it discharges in the same manner certain anomalous judicial functions; and its "consent and advice" are required in some cases in which the observance of that form has been thought a requisite check on the exercise of particular prerogatives of the Crown. But in other respects it bears a greater resemblance to a Cabinet, the Governor being in the habit of taking its advice on most of the important questions of his policy. But as there is no division into departments in the council, there is no individual responsibility, and no individual superintendence. Each member of the Council takes an equal part in all the business brought before it. The power of removing members being very rarely exercised, the Council is, in fact, for the most part composed of persons placed in it long ago; and the Governor is obliged either to take the advice of persons in whom he has no confidence, or to consult only a portion of the Council. The secresy of the proceedings adds to the irresponsibility of the body; and when the Governor takes an important step, it is not known, or not authentically known, whether he has taken the advice of this Council or not, what members he has consulted, or by the advice of which of the body he has been finally guided. The responsibility of the Executive Council has been constantly demanded by the reformers of Upper Canada, and occasionally by those of the Lower Province. But it is really difficult to conceive how a desirable responsibility could be attained, except by altering the working of this cumbrous machine, and placing the business of the various departments of Government in the hands of competent public officers.

In the ordinary course of public business in the Colony, almost all matters come, in fact, before the Governor, or his immediate assistant, the Civil Secretary of the Province. The Civil Secretary's office is, in fact, the one general public office in which almost every species of business originates, or through which it passes in some stage or other. The applications which every day reach this office show the singular want of proper organization in the Province, and the great confusion of ideas respecting the functions of Government, generated in the minds of the people. A very considerable proportion consists of requests to the Governor to interfere

with the course of civil justice. Every decision of subordinate officers is made matter of appeal; and no reference to the proper department satisfies the applicants, who imagine that they have a right to claim a personal investigation of every case by the Governor or the Civil Secretary. The appeals from the past are equally numerous; and it appears to be expected that every new Governor should sit in judgment on every decision of any or all of his predecessors, which happens to have dissatisfied the applicant.

But if such is the bad organization and imperfection of the system at the seat of Government, it may be easily believed that the remainder of the Province enjoyed no very vigorous or complete administration. In fact, beyond the walls of Quebec, all regular administration of the country appeared to cease; and there literally was hardly a single public officer of the civil government, except in Montreal and Three Rivers, to whom any order could be directed. The Solicitor-General commonly resides at Montreal; and in each of the districts there is a Sheriff. In the rest of the Province there is no sheriff, no mayor, no constable, no superior administrative officer of any kind. There are no county, no municipal, no parochial officers, either named by the Crown, or elected by the people. There is a body of unpaid Justices of the Peace, whom I will describe more particularly hereafter. The officers of the militia used to be employed for purposes of police, as far as regarded the service of criminal warrants; but their services were voluntary, and not very assiduous; and the whole body is now completely disorganized. In every case in which any information was required by the Government, or any service was to be performed in a remote part of the Province, it was necessary either to send some one to the spot, or to find out, by inquiry at the seat of Government, the name of some resident there whom it was advisable and safe to consult on the subject, or direct to do the act required. In the state of parties in the country, such a step could hardly ever be taken, without trusting to very suspicious information, or delegating power to persons who would be, or be suspected of being, likely to abuse it.

This utter want of any machinery of executive government

in the Province is not, perhaps, more striking than might be observed in some of the most flourishing portions of the American continent. But in the greater part of the States to which I refer, the want of means at the disposal of the central executive is amply supplied by the efficiency of the municipal institutions; and even where these are wanting, or imperfect, the energy and self-governing habits of an Anglo-Saxon population enable it to combine whenever a necessity arises. But the French population of Lower Canada possesses neither such institutions, nor such a character. Accustomed to rely entirely on the Government, it has no power of doing any thing for itself, much less of aiding the central authority.

The utter want of municipal institutions giving the people any control over their local affairs, may indeed be considered as one of the main causes of the failure of representative government, and of the bad administration of the country. If the wise example of those countries in which a free representative government has alone worked well, had been in all respects followed in Lower Canada, care would have been taken, that, at the same time that a Parliamentary system, based on a very extended suffrage, was introduced into the country, the people should have been entrusted with a complete control over their own local affairs, and been trained for taking their part in the concerns of the Province, by their experience in the management of that local business which was most interesting and most easily intelligible to them. But the inhabitants of Lower Canada were unhappily initiated into self-government at exactly the wrong end, and those who were not trusted with the management of a parish, were enabled, by their votes, to influence the destinies of a State. During my stay in the Province, I appointed a commission to inquire into its municipal institutions, and the practicability of introducing an effective and free system for the management of local affairs. The gentlemen entrusted with this inquiry had, when they were interrupted in their labours, made considerable progress towards preparing a report, which will, I hope, develop, in a full and satisfactory manner, the extent of the existing evil, and the nature of the practicable remedies.

There never has been, in fact, any institution in Lower Canada, in which any portion of the French population have been brought together for any administrative purpose, nor is there among the divisions of the country any one which has been constituted with a view to such an end. The larger divisions, called "districts," are purely judicial divisions. The counties may be called merely Parliamentary divisions; for I know of no purpose for which they appear to have been constituted, except for the election of members for the House of Assembly; and during the present suspension of representative government, they are merely arbitrary and useless geographical divisions. There are no hundreds, or corresponding sub-divisions of counties. The parishes are purely ecclesiastical divisions, and may be altered by the Catholic Bishops. The only institution in the nature of local management, in which the people have any voice, is the *fabrique*, by which provision is made for the repairs of the Catholic churches.

The townships are inhabited entirely by a population of British and American origin; and may be said to be divisions established for surveying, rather than any other purposes. The eastern townships present a lamentable contrast in the management of all local matters to the bordering state of Vermont, in which the municipal institutions are the most complete, it is said, of any part even of New England. In any new settled district of New England, a small number of families settling within a certain distance of each other, are immediately empowered by law to assess themselves for local purposes, and to elect local officers. The settlers in the Eastern townships, many of whom are natives of New England, and all of whom can contrast the state of things on their own with that which is to be seen on the other side of the line, have a serious and general cause of discontent in the very inferior management of all their own local concerns. The Government appears even to have discouraged the American settlers from introducing their own municipal institutions by common assent. "I understood," says Mr. Richards, in a Report to the Secretary of State for the Colonies, ordered by the House of Commons to be printed in March 1832, "That the Vermonters had crossed the line, and partially occupied several

townships, bringing with them their own municipal customs; and that when the impropriety of electing their own officers was pointed out to them, they had quickly given them up, and promised to conform to those of Canada."

But the want of municipal institutions has been and is most glaringly remarkable in Quebec and Montreal. These cities were incorporated a few years ago by a temporary provincial Act, of which the renewal was rejected in 1836. Since that time these cities have been without any municipal government; and the disgraceful state of the streets, and the utter absence of lighting, are consequences which arrest the attention of all, and seriously affect the comfort and security of the inhabitants.

The worst effects of this most faulty system of general administration will be developed in the view which I shall hereafter give of the practices adopted with respect to the public lands, and the settlement of the Province; but which I postpone for the present, because I purpose considering this subject with reference to all the North American Provinces. But I must here notice the mischievous results prominently exhibited in the provision which the government of Lower Canada makes for the first want of a people, the efficient administration of justice.

The law of the Province and the administration of justice are, in fact, a patch-work of the results of the interference, at different times, of different legislative powers, each proceeding on utterly different and generally incomplete views, and each utterly regardless of the other. The law itself is a mass of incoherent and conflicting laws, part French, part English, and with the line between each very confusedly drawn. Thus the criminal law is the criminal law of England, as it was introduced in 1774, with such modifications as have since been made by the provincial legislature, it being now disputed whether the provincial legislature had any power to make any change whatever in that law, and it not being at all clear what is the extent of the phrase "criminal law." The civil law is the ancient civil law, also modified in some, but unfortunately very few, respects; and these modifications have been almost exclusively effected by Acts of

the British Parliament and by ordinances of the Governor and Council constituted under the Quebec Act. The French law of evidence prevails in all civil matters, with a special exception of " commercial" cases, in which it is provided that the English law is to be adopted ; but no two lawyers agree in their definition of " commercial."

For judicial purposes, the Province is divided into four superior districts, having unlimited and supreme original jurisdiction, and one inferior, with limited jurisdiction. The four superior are those of Quebec and Montreal, Three Rivers and St. Francis ; the inferior, that of Gaspé.

The district of Gaspé is subordinate to that of Quebec, with some special provisions for the administration of justice within it under a particular Provincial Act, which expires next May. I could obtain no very satisfactory information respecting this district, except that every body appeared to be of opinion that, from its distance and scanty population, it had always met with very little attention from either the legislature or the executive government. About the administration of justice therein I could hardly obtain any information; indeed, on one occasion, it being necessary, for some particular purpose, to ascertain the fact, inquiry was made at all the public offices in Quebec, whether or not there was any coroner for Gaspé. It was a long time before any information could be got on this point, and it was at last in some measure cleared up, by the Accountant-General discovering an estimate for the salary of such an officer. The only positive information, therefore, that I can give respecting the present administration of justice in Gaspé is, that I received a petition from the inhabitants, praying that the act by which it is regulated, might not be renewed.

Each of the courts of Quebec and Montreal has a chief justice and three puisne judges ; there is but one judge in each of the districts of Three Rivers and St. Francis. During term time, judges from other districts make up the bench in these two.

In all civil cases these courts have original jurisdiction to an unlimited amount; and in spite of the immense extent of

all, but particularly of the two greater districts, the parties are in almost all cases brought up to the chief towns, for the trial of their causes.

An attempt, but of a very trifling and abortive character, has been made to introduce the English system of circuits. The judges of these districts make circuits once a-year, in order to try causes in which the disputed value is not more than 10*l.* sterling. The limitation of the value, the introduction of small debt courts, and the consequent failure of attendance on the part of a bar during their progress, and the very insufficient time allotted for the stay at each place, have, I am informed, rendered these circuits almost useless; and even the suits which might be tried at the circuits are generally in preference carried up for trial to the chief places of these districts.

There are some complaints that excessive fees are taken in the courts of Montreal and Quebec. The distribution of legal patronage is a matter of great, it is not easy to say of how just complaint; but the substantial evil of the administration of civil justice consists in the practical denial of it, caused by the utter inefficiency of the circuit system, and enormous expense and delay of carrying every suit, where the value in dispute is more than 10*l.* sterling, from the extremities of the three large and settled districts of the Province to the three district towns; in the vicious constitution of the inferior tribunals, by which it has been attempted to supply the want of an effective system, either of circuits or local courts; and in the very faulty nature of the supreme appellate jurisdiction of the Province.

The minor litigation of the country is, in fact, carried on throughout these three districts, in the courts of the Commissioners of Small Causes. These courts are established in the different parishes by the Governor, on an application made by a certain number of the parishioners, according to forms prescribed by the provincial statute, in which this institution takes its rise, and have jurisdiction over all debts not exceeding 25 dollars, equal to 6*l.* 5*s.* currency. The Commissioners are appointed by the Governor, upon the recommendation of the petitioners; these are residents in the parish, and almost

wholly unversed in law. The constitution of these courts is, in fact, nothing else in substance, but an elective judiciary, elected under the most irregular, fraudulent, and absurd electoral system that could possibly be devised. I cannot better illustrate this description, than by narrating simply the mode in which the appointment is, in fact, made. It is, and has for a long time been, left almost entirely in the hands of a subordinate assistant in the Civil Secretary's office. This gentleman stated that he took no steps, and indeed by law he could not, until he received a petition, with the requisite number of names attached. His impression was, that these signatures were generally obtained by assiduous canvassing in the parish, generally on the part of some person who wanted the appointment of clerk, which is paid, and who took this trouble, in order to secnre the nomination of commissioners, from whom he expected to get the appointment. After some inquiry from any person whom this assistant secretary thought proper to consult respecting the characters of the persons proposed, they were, almost as a matter of course, appointed. After a short time, if some other person in the district happened to acquire more popularity, and to covet the office, a petition was got up, containing charges against the occupant of the office, and praying for his removal, and the substitution of his rival. Upon most of the appointments also there arose long controversies respecting the politics, qualification, and character of the candidate for office : and a removal or new appointment was always attributed to some political causes by the newspapers of each party or race. The inquiry into the qualification of persons proposed, the investigation of the charges made, the defence urged in reply, and the distant and unsatisfactory evidence adduced in support of each, formed a large proportion of the business of the Civil Secretary's office. Whatever appointment was made, the Government was sure to create dissatisfaction ; and the administration of justice was left in the hands of incompetent men, whose appointment had been made in such a manner, as even sometimes to render their integrity suspicious, in the eyes, not only of those who had opposed, but also of those who had supported their nomination. I shall only add, that some time previous to my

leaving the Province, I was very warmly and forcibly urged, by the highest legal authorities in the country, to abolish all these tribunals at once, on the ground that a great many of them, being composed entirely of disaffected French Canadians, were busily occupied in harassing loyal subjects, by entertaining actions against them, on account of the part they had taken in the late insurrection. There is no appeal from their decision; and it was stated that they had in the most barefaced manner given damages against loyal persons for acts done in the discharge of their duty, and judgments by default against persons who were absent, as volunteers in the service of the Queen, and enforced their judgment by levying distresses on their property.

I must now turn from the lowest to the highest civil tribunal of the Province. In a country in which the administration of justice is so imperfect in all the inferior stages, and in which two different and often conflicting systems of law are administered by judges whose professional education and origin necessarily cause different leanings in favour of the respective systems in which each is more particularly versed, the existence of a good and available appellate jurisdiction, which may keep the law uniform and certain, is matter of much greater importance than in those countries in which the law is homogeneous, and its administration by the subordinate tribunals is satisfactory. But the appellate jurisdiction of Lower Canada is vested in the Executive Council, a body established simply for political purposes, and composed of persons in great part having no legal qualifications whatsoever. The Executive Council sits as a court of appeal four times in the year, and for the space of ten days during each session; on these occasions the two Chief Justices of Quebec and Montreal were, *ex officio*, presidents, and each in turn presided when appeals from the other's district were heard. The laymen who were present to make up the necessary quorum of five, as a matter of course, left the whole matter to the presiding Chief Justice, except in some instances, in which party feelings or pecuniary interests are asserted to have induced the unprofessional members to attend in unusual numbers, to disregard the authority of the Chief Justice, and to pervert the law. In

the general run of cases, therefore, the decision was left to the President alone, and each Chief Justice became, in consequence, the real Judge of appeal from the whole court of the other district. It is a matter of perfect and undisputed notoriety, that this system has produced the results which ought to have been foreseen as inevitable; and that, for some time before I arrived in the Province, the two Chief Justices had constantly differed in opinion upon some most important points, and had been in the habit of generally reversing each other's judgments. Not only, therefore, was the law uncertain and different in the two districts, but, owing to the ultimate power of the Court of Appeal, that which was the real law of each district, was that which was held not to be law by the Judges of that district. This is not merely an inference of my own; it is very clear that it was the general opinion of the profession and the public. The Court of Appeal, as re-modelled by me, at the only sitting which it held, reversed all but one of the judgments brought before it. This induced a member of the court to remark to one of the Chief Justices, that so general a reversal of the law of a very competent court below, by a tribunal so competent as the Court of Appeals then was, appeared to him utterly inexplicable, inasmuch as it could in no wise be attributed, as it was before, to the influence of a single Judge. The reply of the Chief Justice was, that the matter was easily accounted for; that the system previously adopted in the Court of Appeals had rendered the decision of the court below so complete a nullity, that the parties and counsel below often would not take the trouble to enter into the real merits of their case, and that the real bearing and law of the case were, generally, most fully stated before the Court of Appeals.

As the business of the Court of Appeals was thus of great extent and importance, it became necessary that having, from political considerations, altered the composition of the Executive Council, I should re-organize the Court of Appeals. I determined to do this upon the best principle that I could carry into effect, under the circumstances of the case; for, as the constitution of the Court of Appeals is prescribed by the Constitutional Act, I could not vest the appellate jurisdiction

in any other body than the Executive Council. I called, therefore, to the Executive Council the Chief Justice and one Puisne Judge from each of the two districts of Quebec and Montreal, and by summoning also the Judge of Three Rivers, I gave the members of the two conflicting tribunals an impartial arbiter in the person of M. Valliere de St. Real, admitted by universal consent to be the ablest French lawyer in the Province. But the regulations of the Executive Council, which it was supposed I could not alter in this case, required the presence of a quorum of five; and as no Judge could sit on an appeal from his own court, I had now only provided three for every appeal from the two greater districts. In order to make up the quorum, the court was therefore attended by two other executive councillors, one of whom, by his thorough knowledge of commercial law, and his general legal experience, was commonly admitted to have rendered essential service. I believe I may confidently say that the decisions of this court carried far greater weight than those of any previous court of appeals.

The further appeal to the Privy Council, allowed in cases where the value was above 500*l.*, is, from the great delay and great expense attendant on it, hardly ever resorted to. The establishment of a good appellate jurisdiction for the whole of the North American Colonies is therefore greatly desired by every Province; and a competent tribunal for this purpose would spare the cost and delay of a resort to the Privy Council, and answer all the purposes proposed to be attained by the present double system of appeal.

The evils of the system of criminal justice are not so various; but, from the faulty judicial division and administrative system of the Province, the defects which exist in the constitution of the courts of justice are even more severely felt in this department. For, except at the principal towns of the five districts, there is not the slightest provision for criminal justice; and to these places all prisoners must be brought for trial from the most remote parts, subject to their jurisdiction. Thus from the extreme settlements on the Ottawa, where is now the great seat of the lumber trade, and of the large and wild population which it brings together, all prisoners have to be

carried a distance of 200 miles, by bad and uncertain means of conveyance, to Montreal for trial. On the left bank of the Ottawa the law has, according to a high legal authority, no power. It was but lately that a violent mob, called Shiners, for a long time set the law at defiance, and had entirely at their mercy the large properties invested in that part of the country.

Besides those in the five places above mentioned, there are only three county gaols, one of which is in the district of Gaspé. There are no sessions held in any other than those places. At the Quebec, Montreal, and Three Rivers quarter sessions there were, some years ago, professional and salaried chairmen, but the Assembly discontinued them. There are sheriffs only in the districts, and not in each county. They are named by the Crown for life, and are removable at pleasure. The offices are very lucrative, and are said to have been frequently disposed of from personal or political favouritism. It is also matter of complaint, that insufficient security has been taken from those appointed to them; and many individuals have consequently sustained very serious loss from the defalcation of sheriffs.

But the most serious mischief in the administration of criminal justice, arises from the entire perversion of the institution of juries, by the political and national prejudices of the people. The trial by jury was introduced with the rest of the English criminal law. For a long time the composition of both grand and petit juries was settled by the Governor, and they were at first taken from the cities, which were the *chefs lieux* of the district. Complaints were made that this gave an undue preponderance to the British in those cities: though, from the proportions of the population, it is not very obvious how they could thereby obtain more than an equal share. In consequence, however, of these complaints, an order was issued under the government of Sir James Kempt, directing the sheriffs to take the juries not only from the cities, but from the adjacent country, for fifteen leagues in every direction. An Act was subsequently passed, commonly called "Mr. Viger's Jury Act," extending these limits to those of the district. The principle of taking the jury from the whole

district to which the jurisdiction of the court extended, is undoubtedly in conformity with the principles of English law; and Mr. Viger's Act, adopting the other regulations of the English jury law, provided a fair selection of juries. But if we consider the hostility and proportions of the two races, the practical effect of this law was to give the French an entire preponderance in the juries. This Act was one of the temporary Acts of the Assembly, and, having expired in 1836, the Legislative Council refused to renew it. Since that period, there has been no jury law whatever. The composition of the juries has been altogether in the hands of the Government. Private instructions, however, have been given to the sheriff to act in conformity with Sir James Kempt's ordinance; but though he has always done so, the public have had no security for any fairness in the selection of the juries. There was no visible check on the sheriff; the public knew that he could pack a jury whenever he pleased, and supposed, as a matter of course, that an officer, holding a lucrative appointment at the pleasure of Government, would be ready to carry into effect those unfair designs which they were always ready to attribute to the Government. When I arrived in the Province, the public was expecting the trials of the persons accused of participation in the late insurrection. I was, on the one hand, informed by the law officers of the Crown and the highest judicial authorities, that not the slightest chance existed under any fair system of getting a jury that would convict any of these men, however clear the evidence of their guilt might be; and on the other side, I was given to understand, that the prisoners and their friends supposed, that, as a matter of course, they would be tried by packed juries, and that even the most clearly innocent of them would be convicted.

It is, indeed, a lamentable fact, which must not be concealed, that there does not exist in the minds of the people of this Province the slightest confidence in the administration of criminal justice; nor were the complaints, or the apparent grounds for them, confined to one party.

The French complain that the institution of both grand and petit juries have been repeatedly tampered with against them.

They complain that when it has suited the interests of the Government to protect persons guilty of gross offences against the French party, they have attained their end by packing the grand jury. Great excitement has long existed among the French party, in consequence of a riot which took place at the election for the West Ward of Montreal, in May 1832, on which occasion the troops were called out, fired on the people, and killed three of them. An indictment was preferred against the magistrates and officers who ordered the troops to fire. It was urged by the French, that the grand jury was composed almost entirely of Englishmen; that 12 out of the 23 were taken from the parish of Lachine, the smallest in the whole island; a selection which, they said, could hardly be attributed to mere chance, and that they were not in the usual station in life of grand jurymen. The opposite party, it must be observed, however, argued that this apparent selection of a majority of the grand jury from a single parish was a necessary result of some ill-contrived provision of Mr. Viger's Jury Act. The bill was thrown out, and all judicial investigation into the circumstances consequently quashed. I am merely mentioning the complaints of parties. I know not whether the preceding allegations were well founded, but there can be no doubt that such was the impression produced among the French Canadians by these proceedings, which, in their minds, completely destroyed all confidence in the administration of justice.

The French Canadians further complain, that the favourable decision of a grand jury was of no avail to those who had fallen under the displeasure of the Government. There are several instances in the recent history of Lower Canada, in which an attorney-general, being dissatisfied with the conduct of the grand jury in ignoring a bill, either repeatedly preferred indictments for the same offence, until he obtained a grand jury which would find them, or filed *ex-officio* informations.

Nor are the complaints of the English population of a less serious nature. They assert, unhappily on too indisputable grounds, that the Canadian grand and petit juries have invariably used their power to ensure impunity to such of their

countrymen as had been guilty of political offences. The case of Chartrand is not the only one in which it is generally believed that this has been done. The murderers of an Irish private soldier of the 24th regiment, of the name of Hands, are asserted to have been saved by an equally gross violation of their oaths on the part of the jury. A respectable and intelligent member of the grand jury which sat at Montreal in October 1837, informed the Government, that nothing could be more proper than the behaviour of a great majority of the jurymen, who were French Canadians, while they were occupied with cases not connected with politics. They attended patiently to the evidence, and showed themselves well disposed to follow the opinion of the foreman, who was a magistrate of great competence; but it was added, that the instant they came to a political case, all regard for even the appearance of impartiality vanished, and they threw out the bills by acclamation, without listening to the remonstrances of the foreman.

The trial by jury is therefore, at the present moment, not only productive in Lower Canada of no confidence in the honest administration of the laws, but also provides impunity for every political offence.

I cannot close this account of the system of criminal justice, without making some remarks with respect to the body by which it is administered in its primary stages and minor details to the great mass of the people of the Province—I mean the magistracy; and I cannot but express my regret, that among the few institutions for the administration of justice throughout the country, which have been adopted in Lower Canada from those of England, should be that of unpaid Justices of the Peace. I do not mean in any way to disparage the character, or depreciate the usefulness, of that most respectable body in this country. But the warmest admirer of that institution must admit, that its benefits result entirely from the peculiar character of the class from which our magistracy is selected; and that without the general education, the moral responsibility imposed by their high station in the eyes of their countrymen, the check exercised by the opinion of their own class, and of an intelligent and

vigilant public, and the habits of public business which almost every Englishman more or less acquires, even the country gentlemen of England could not wield their legally irresponsible power as Justices of the Peace to the satisfaction of their countrymen. What, then, must be conceived of the working of this institution in a colony, by a class over whom none of these checks exist, and whose station in life and education would alone almost universally exclude them from a similar office at home? When we transplant the institutions of England into our colonies, we ought at least to take care beforehand, that the social state of the colony should possess those peculiar materials on which alone the excellence of those institutions depends in the mother country. The body of Justices of the Peace scattered over the whole of Lower Canada are named by the Governor, on no very accurate local information, there being no lieutenants or similar officers of counties in this, as in the Upper Province. The real property qualification required for the magistracy is so low, that in the country parts almost every one possesses it; and it only excludes some of the most respectable persons in the cities. In the rural districts the magistrates have no clerks. The institution has become unpopular among the Canadians, owing to their general belief that the appointments have been made with a party and national bias. It cannot be denied that many most respectable Canadians were long left out of the commission of the peace, without any adequate cause; and it is still more undeniable, that most disreputable persons of both races have found their way into it, and still continue to abuse the power thus vested in them. Instances of indiscretion, of ignorance, and of party feeling, and accusations of venality, have been often adduced by each party. Whether these representations be exaggerated or not, or whether they apply to a small or to a large portion of the magistracy, it is undeniable that the greatest want of confidence in the practical working of the institution exists; and I am therefore of opinion, that whilst this state of society continues, and, above all, in the present exasperation of parties, a small stipendiary magistracy would be much better suited to both Upper and Lower Canada.

The police of the Province has always been lamentably defective. No city, from the lawless and vicious character of a great part of its population, requires a more vigilant police than Quebec. Until May 1836, the police of this city was regulated by an Act which then expired, and was not renewed, and it consisted of 48 watchmen, of whom half served every night for the whole town. The day police consisted of six constables, who were under no efficient control. On the expiration of this Act there was no night police at all; and murders occurring in the streets, the inhabitants formed a voluntary patrol for the upper town. Lord Gosford, in December 1837, appointed Mr. Young inspector of police, with eight policemen under him; a sergeant and eight men of the Volunteer Seamen's Company were placed under his order; and another magistrate had a corporal and twelve men of the same company for the police of the lower town. Finding their force wholly insufficient, receiving daily complaints, and witnessing daily instances of disorder and neglect, and, above all, being much pressed to increase the police by the owners of vessels who had no power of restraining the desertion of their crews, I ordered a regular police of 32 men to be organized on the plan of the London police in June last. This body was further augmented in October to 75; and this number is represented to me by the inspector as by no means more than sufficient.

In Montreal, where no approach to a general system of police had been made, I directed Mr. Leclerc, who had been appointed a stipendiary magistrate by Lord Gosford, to organize a force similar to that of Quebec. The number of this is now carried, I think, as high as 100.

Throughout the rest of the Province, where the functions of a police used to be discharged by the militia, that body being now disorganized, there is, in fact, no police at all. In the course of the autumn, I was informed by Mr. Young, that at St. Catharine's, 46 miles from Quebec, a man, after notoriously committing an assault with intent to murder, was still at large a fortnight after the act; and that no means had been found of executing a warrant issued against him by a county magistrate. As the only means of enforcing the law,

Mr. Young was authorized to send policemen sworn in as special constables, the place being out of his jurisdiction; and by them the arrest was effected. When Theller and Dodge escaped from the citadel, and were supposed to have taken the direction of the Kennebec road, no means existed of stopping their flight, except by sending the police of Quebec to the very frontier of the United States.

As there was no rural police, the same step had been taken in the case of a deserter.

In the course of the preceding account, I have already incidentally given a good many of the most important details of the provision for education made in Lower Canada. I have described the general ignorance of the people, and the abortive attempt which was made, or rather which was professed to be made, for the purpose of establishing a general system of public instruction; I have described the singular abundance of a somewhat defective education which exists for the higher classes, and which is solely in the hands of the Catholic priesthood. It only remains that I should add, that though the adults who have come from the Old Country are generally more or less educated, the English are hardly better off than the French for the means of education for their children, and indeed possess scarcely any, except in the cities.

There exists at present no means of college education for Protestants in the Province; and the desire of obtaining general, and still more, professional instruction, yearly draws a great many young men into the United States.

I can indeed add little to the general information possessed by the Government respecting the great deficiency of instruction, and of the means of education in this Province. The commissioner whom I appointed to inquire into the state of education in the Province, endeavoured very properly to make inquiries so minute and ample, that the real state of things should be laid fully open; and with this view, he had with great labour prepared a series of questions, which he had transmitted to various persons in every parish. At the time when his labours were brought to a close, together with mine,

he had received very few answers; but as it was desirable that the information which he had thus prepared the means of obtaining, should not be lost, a competent person has been engaged to receive and digest the returns. Complete information respecting the state of education, and of the result of past attempts to instruct the people, will thus, before long, be laid before the Government.

The inquiries of the commissioner were calculated to inspire but slender hopes of the immediate practicability of any attempt to establish a general and sound system of education for the Province. Not that the people themselves are indifferent or opposed to such a scheme. I was rejoiced to find that there existed among the French population a very general and deep sense of their own deficiencies in this respect, and a great desire to provide means for giving their children those advantages which had been denied to themselves. Among the English the same desire was equally felt; and I believe that the population of either origin would be willing to submit to local assessments for this purpose.

The inhabitants of the North American Continent, possessing an amount of material comfort unknown to the peasantry of any other part of the world, are generally very sensible to the importance of education. And the noble provision which every one of the northern States of the Union has gloried in establishing for the education of its youth, has excited a general spirit of emulation amongst the neighbouring Provinces, and a desire, which will probably produce some active efforts, to improve their own educational institutions.

It is therefore much to be regretted, that there appear to exist obstacles to the establishment of such a general system of instruction as would supply the wants, and, I believe, meet the wishes of the entire population. The Catholic Clergy, to whose exertions the French and Irish population of Lower Canada are indebted for whatever means of education they have ever possessed, appear to be very unwilling that the State should in any way take the instruction of youth out of their hands. Nor do the clergy of some other denominations exhibit generally a less desire to give to education a sectarian character, which would be peculiarly mischievous in this Pro-

vince, inasmuch as its inevitable effect would be to aggravate and perpetuate the existing distinctions of origin. But as the laity of every denomination appear to be opposed to these narrow views, I feel confident that the establishment of a strong popular government in this Province would very soon lead to the introduction of a liberal and general system of public education.

I am grieved to be obliged to remark, that the British Government has, since its possession of this Province, done, or even attempted, nothing for the promotion of general education. Indeed, the only matter in which it has appeared in connection with the subject, is one by no means creditable to it. For it has applied the Jesuits' estates, part of the property destined for purposes of education, to supply a species of fund for secret service; and for a number of years it has maintained an obstinate struggle with the Assembly in order to continue this misappropriation.

Under the head of the Hospitals, Prisons, and Charitable Institutions of Lower Canada, I beg to refer to some valuable information collected, by my direction, by Sir John Doratt, during the exercise of his office of Inspector-general of Hospitals and Charitable and Literary institutions, which will be found in a separate part of the Appendix to this Report. I regret that the pressure of more urgent duties did not allow me time to institute into these subjects so searching and comprehensive an inquiry as I should have desired to make in other circumstances. But there are some points brought under my notice by Sir John Doratt, to which I think it important that the attention of Your Majesty's Government should be directed without delay. I advert to the existing want of any public establishment for the reception of insane persons either in Lower or Upper Canada; to the bad state of the prisons in general, and especially the disgraceful condition of the gaol of the city of Quebec; to the defects of the quarantine station at Grosse Isle; to the low and ignorant state of the medical profession throughout the rural districts; and to the necessity of a change in the system of providing for the insane, the invalid poor, and foundlings, by payments of public monies to convents for that

purpose. It is evident that considerable abuses exist in the management of several philanthropic institutions. I have adverted, in another part of my Report, to the subject of pauperism, as connected with emigration; and the evidence there cited is in some respects confirmed by the information communicated by Sir John Doratt.

It is a subject of very just congratulation, that religious differences have hardly operated as an additional cause of dissension in Lower Canada; and that a degree of practical toleration, known in very few communities, has existed in this Colony, from the period of the conquest down to the present time.

The French Canadians are exclusively Catholics, and their church has been left in possession of the endowments which it had at the conquest. The right to tithe is enjoyed by their priests; but as it is limited by law to lands of which the proprietor is a Catholic, the priest loses his tithe the moment that an estate passes, by sale or otherwise, into the hands of a Protestant. This enactment, which is at variance with the true spirit of national endowments for religious purposes, has a natural tendency to render the clergy averse to the settlement of Protestants in the seigniories. But the Catholic priesthood of this Province have, to a very remarkable degree, conciliated the good-will of persons of all creeds; and I know of no parochial clergy in the world whose practice of all the Christian virtues, and zealous discharge of their clerical duties, is more universally admitted, and has been productive of more beneficial consequences. Possessed of incomes sufficient, and even large, according to the notions entertained in the country, and enjoying the advantage of education, they have lived on terms of equality and kindness with the humblest and least instructed inhabitants of the rural districts. Intimately acquainted with the wants and characters of their neighbours, they have been the promoters and dispensers of charity, and the effectual guardians of the morals of the people; and in the general absence of any permanent institutions of civil government, the Catholic church has presented almost the only semblance of stability and organization, and

furnished the only effectual support for civilization and order. The Catholic clergy of Lower Canada are entitled to this expression of my esteem, not only because it is founded on truth, but because a grateful recognition of their eminent services, in resisting the arts of the disaffected, is especially due to them from one who has administered the government of the Province in these troubled times.

The Constitutional Act, while limiting the application of the clergy reserves in the townships to a Protestant clergy, made no provision for the extension of the Catholic clerical institution, in the event of the French population settling beyond the limits of the seigniories. Though I believe that some power exists, and has been in a few cases used, for the creation of new Catholic parishes, I am convinced that this absence of the means of religious instruction has been the main cause of the indisposition of the French population to seek new settlements, as the increase of their numbers pressed upon their resources. It has been rightly observed, that the religious observances of the French Canadians are so intermingled with all their business, and all their amusements, that the priest and the church are with them, more than with any other people, the centres of their little communities. In order to encourage them to spread their population, and to seek for comfort and prosperity in new settlements, a wise government would have taken care to aid, in every possible way, the diffusion of their means of religious instruction.

The Protestant population of Lower Canada have been of late somewhat agitated by the question of the clergy reserves. The meaning of the ambiguous phrase "Protestant clergy" has been discussed with great ardour in various quarters; and each disputant has displayed his ingenuity in finding reasons for a definition in accordance with his own inclination, either to the aggrandizement of his own sect, or the establishment of religious equality. Owing to the small numbers of the British population, to the endowment of the Catholic church in most of the peopled and important districts of the Colony, and, above all, to the much more formidable and extensive causes of dissension existing in the Province, the dispute of the various Protestant denominations for the funds

reserved for a "Protestant clergy," has not assumed the importance which it has acquired in Upper Canada. In my account of that Province I shall give a more detailed explanation of the present position of this much-disputed question. I have reason to know, that the apprehension of measures tending to establish the predominance of a particular creed and clergy, has produced an irritation in this Province which has very nearly deprived the Crown of the support of some portions of the British population, in a period of very imminent danger. I must therefore most strongly recommend, that any plan by which the question of clergy reserves shall be set at rest in Upper Canada, should also be extended to the Lower Province. The endowments of the Catholic church, and the services of its numerous and zealous parochial clergy, have been of the greatest benefit to the large body of Catholic emigrants from Ireland, who have relied much on the charitable as well as religious aid which they have received from the priesthood. The priests have an almost unlimited influence over the lower classes of Irish; and this influence is said to have been very vigorously exerted last winter, when it was much needed, to secure the loyalty of a portion of the Irish during the troubles. The general loyalty exhibited by the Irish settlers in the Canadas, during the last winter, and the importance of maintaining it unimpaired in future times of difficulty, render it of the utmost moment that the feelings and interests of the Catholic clergy and population should invariably meet with due consideration from the Government.

Setting on one side the management of the Crown Lands, and the revenue derived therefrom, which will be treated of fully in another part, it is not necessary that I should, on the present occasion, enter into any detailed account of the financial system of Lower Canada, my object being merely to point out the working of the general system of Government, as operating to produce the present condition of the Province. I need not inquire whether its fiscal, monetary, or commercial arrangements have been in accordance with

the best principles of public economy. But I have reason to believe that improvements may be made in the mode of raising and expending the Provincial revenue. During my stay in Canada, the evils of the banking and monetary systems of the Province forced themselves on my attention. I am not inclined, however, to regard these evils as having been in anywise influential in causing the late disorders. I cannot regard them as indicative of any more mismanagement or error, than are observable in the measures of the best governments with respect to questions of so much difficulty; and though the importance of finding some sufficient remedy for some of these disorders has, as I shall hereafter explain, very materially influenced my views of the general plan to be adopted for the government of this and the other North American Colonies, I regard the better regulation of the financial and monetary systems of the Province as a matter to be settled by the local Government, when established on a permanent basis.

With the exception of the small amount now derived from the casual and territorial funds, the public revenue of Lower Canada is derived from duties imposed, partly by imperial and partly by provincial statutes. These duties are, in great proportion, levied upon articles imported into the Colony from Great Britain and foreign countries; they are collected at the principal ports by officers of the Imperial Customs.

The amount of the revenue has within the last four years diminished from about £150,000, to little more than £100,000 per annum. This diminution is ascribed principally to the decreased consumption of spirituous liquors, and some other articles of foreign import, in consequence of the growth of native manufactures of such articles. Nevertheless, as the permanent expenditure of the civil government only amounts to about £60,000 a year, there remains still a considerable surplus to be disposed of for local purposes, in the mischievous manner which I have described in the preceding pages. A vigorous and efficient government would find the whole revenue hardly adequate to its necessities; but in the present state of things, I consider the existence and application of this surplus revenue as so prejudicial, that I should, as the less of

two evils, recommend a reduction of the duties levied, were it possible to do this without an equal diminution of the revenue of Upper Canada, which can by no means afford it.

The financial relations betwen these two Provinces are a source of great and increasing disputes. The greater part, almost the whole of the imports of Upper Canada entering at the ports of Lower Canada, the Upper Province has urged and established its claim to a proportion of the duties levied on them. This proportion is settled, from time to time, by Commissioners appointed from each Province. Lower Canada now receives about three, and Upper Canada about two fifths of the whole amount: nor is this the greatest cause of dissension and dissatisfaction. The present revenue of Upper Canada being utterly inadequate to its expenditure, the only means that that Province will have of paying the interest of its debt, will be by increasing its Customs' duties. But as these are almost all levied in Lower Canada, this cannot be done without raising the taxation also of the Lower Canadians, who have, as it is, a large surplus revenue. It was for the better settlement of these points of difference, that the union of the two Canadas was proposed in 1822; and the same feeling produces a great part of the anxiety now manifested for that measure by a portion of the people of Upper Canada.

A considerable revenue is raised from all these Provinces by the Post-office establishment common to all of them, and subordinate to the General Post-office in England. The surplus revenue, which appears from a Report to the House of Assembly to amount to no less than £10,000 per annum, is transmitted to England. The Assembly made it a matter of great complaint, that an important internal public institution of the Provinces should be entirely regulated and administered by the rulers and servants of an English public office, and that so large an amount of revenue, raised entirely without the consent of the Colonies, in a manner not at all free from objections, should be transmitted to the mother country*.

* The privilege of franking possessed by a few public officers in this Province, is of a singular kind. For, as it is necessary for the

I cannot but say that there is great justice in these complaints, and I am decidedly of opinion, that if any plan of an united government of these Provinces should be adopted, the control and revenue of the Post-office should be given up to the Colony.

For the reasons I have before explained, there is hardly the semblance of direct taxation in Lower Canada for general and local purposes. This immunity from taxation has been sometimes spoken of as a great privilege of the people of Lower Canada, and a great proof of the justice and benevolence of their government. The description which I have given of the singularly defective provision made for the discharge of the most important duties of both the general and the local government will, I think, make it appear that this apparent saving of the pockets of the people has been caused by their privation of many of the institutions which every civilized community ought to possess. A people can hardly be congratulated on having had at little cost a rude and imperfect administration of justice, hardly the semblance of police, no public provision for education, no lighting, and bad pavements in its cities, and means of communication so imperfect, that the loss of time, and wear and tear caused in taking any article to market, may probably be estimated at ten times the expense of good roads. If the Lower Canadians had been subjected, or rather had been taught to subject themselves to a much greater amount of taxation, they would probably at this time have been a much wealthier, a much better governed, a much more civilized, and a much more contented people.

public service that such a privilege should be exercised, and as the English office accords no immunities to the functionaries of a Colonial Government, the postage is charged on all franked letters, and the Provincial Treasury has to pay the amount over to the Post-office. This, in fact, destroys, in a great measure, the utility of the privilege for public purposes; because public officers are unwilling to use the post for their communications, when their doing so diminishes the revenues of the Province.

UPPER CANADA.

THE information which I have to give respecting the state of Upper Canada not having been acquired in the course of any actual administration of the government of that Province, will necessarily be much less ample and detailed than that which I have laid before Your Majesty respecting Lower Canada. My object will be to point out the principal causes to which a general observation of the Province induces me to attribute the late troubles; and even this task will be performed with comparative ease and brevity, inasmuch as I am spared the labour of much explanation and proof, by being able to refer to the details which I have given, and the principles which I have laid down, in describing the institutions of the Lower Province.

At first sight it appears much more difficult to form an accurate idea of the state of Upper than of Lower Canada. The visible and broad line of demarcation which separates parties by the distinctive characters of race, happily has no existence in the Upper Province. The quarrel is one of an entirely English, if not British population. Like all such quarrels, it has, in fact, created, not two, but several parties; each of which has some objects in common with some one of those to which it is opposed. They differ on one point, and agree on another; the sections, which unite together one day, are strongly opposed the next; and the very party, which acts as one against a common opponent, is, in truth, composed of divisions seeking utterly different or incompatible objects. It is very difficult to make out from the avowals of parties the real objects of their struggles, and still less easy is it to discover any cause of such importance as would account for its uniting any large mass of the people in an attempt to overthrow, by forcible means, the existing form of Government.

The peculiar geographical character of the Province greatly increases the difficulty of obtaining very accurate information. Its inhabitants scattered along an extensive frontier, with very imperfect means of communication, and a limited and partial commerce, have, apparently, no unity of interest or opinion. The Province has no great centre with which all the separate parts are connected, and which they are accustomed to follow in sentiment and action; nor is there that habitual intercourse between the inhabitants of different parts of the country, which, by diffusing through all a knowledge of the opinions and interests of each, makes a people one and united, in spite of extent of territory and dispersion of population. Instead of this, there are many petty local centres, the sentiments and the interests (or at least what are fancied to be so) of which are distinct, and perhaps opposed. It has been stated to me by intelligent persons from England, who had travelled through the Province for purposes of business, that this isolation of the different districts from each other was strikingly apparent in all attempts to acquire information in one district respecting the agricultural or commercial character of another; and that not only were very gross attempts made to deceive an inquirer on these points, but that even the information which had been given in a spirit of perfect good faith, generally turned out to be founded in great misapprehension. From these causes, a stranger who visits any one of these local centres, or who does not visit the whole, is almost necessarily ignorant of matters, a true knowledge of which is essential to an accurate comprehension of the real position of parties, and of the political prospects of the country.

The political contest which has so long been carried on in the Assembly and the press appears to have been one, exhibiting throughout its whole course the characteristical features of the purely political part of the contest in Lower Canada; and, like that, originating in an unwise distribution of power in the constitutional system of the province. The financial disputes which so long occupied the contending parties in Lower Canada were much more easily and wisely arranged in the Upper Province; and the struggle, though extending itself over a variety of questions of more or less importance, avowedly

and distinctly rested on the demand for responsibility in the Executive Government.

In the preceding account of the working of the constitutional system in Lower Canada, I have described the effect which the irresponsibility of the real advisers of the Governor had in lodging permanent authority in the hands of a powerful party, linked together not only by common party interests, but by personal ties. But in none of the North American Provinces has this exhibited itself for so long a period, or to such an extent, as in Upper Canada, which has long been entirely governed by a party commonly designated throughout the Province as the "family compact," a name not much more appropriate than party designations usually are, inasmuch as there is, in truth, very little of family connection among the persons thus united. For a long time this body of men, receiving at times accessions to its numbers, possessed almost all the highest public offices, by means of which, and of its influence in the Executive Council, it wielded all the powers of government; it maintained influence in the legislature by means of its predominance in the Legislative Council; and it disposed of the large number of petty posts which are in the patronage of the Government all over the Province. Successive Governors, as they came in their turn, are said to have either submitted quietly to its influence, or, after a short and unavailing struggle, to have yielded to this well-organized party the real conduct of affairs. The bench, the magistracy, the high offices of the Episcopal Church, and a great part of the legal profession, are filled by the adherents of this party: by grant or purchase, they have acquired nearly the whole of the waste lands of the Province; they are all-powerful in the chartered banks, and, till lately, shared among themselves almost exclusively all offices of trust and profit. The bulk of this party consists, for the most part, of native-born inhabitants of the Colony, or of emigrants who settled in it before the last war with the United States; the principal members of it belong to the church of England, and the maintenance of the claims of that church has always been one of its distinguishing characteristics.

A monopoly of power so extensive and so lasting could not

fail, in process of time, to excite envy, create dissatisfaction, and ultimately provoke attack ; and an opposition consequently grew up in the Assembly which assailed the ruling party, by appealing to popular principles of government, by denouncing the alleged jobbing and profusion of the official body, and by instituting inquiries into abuses, for the purpose of promoting reform, and especially economy. The question of the greatest importance, raised in the course of these disputes, was that of the disposal of the clergy reserves; and, though different modes of applying these lands, or rather the funds derived from them, were suggested, the reformers, or opposition, were generally very successful in their appeals to the people against the project of the tory or official party, which was that of devoting them exclusively to the maintenance of the English Episcopal Church. The reformers, by successfully agitating this and various economical questions, obtained a majority. Like almost all popular colonial parties, it managed its power with very little discretion and skill, offended a large number of the constituencies, and, being baffled by the Legislative Council, and resolutely opposed by all the personal and official influence of the official body, a dissolution again placed it in a minority in the Assembly. This turn of fortune was not confined to a single instance; for neither party has for some time possessed the majority in two successive Parliaments. The present is the fifth of these alternating Houses of Assembly.

The reformers, however, at last discovered that success in the elections ensured them very little practical benefit. For the official party not being removed when it failed to command a majority in the Assembly, still continued to wield all the powers of the executive government, to strengthen itself by its patronage, and to influence the policy of the colonial Governor and of the Colonial Department at home. By its secure majority in the Legislative Council, it could effectually control the legislative powers of the Assembly. It could choose its own moment for dissolving hostile Assemblies ; and could always ensure, for those that were favourable to itself, the tenure of their seats for the full term of four years allowed by the law. Thus the reformers found that their triumph at

elections could not in any way facilitate the progress of their views, while the executive government remained constantly in the hands of their opponents. They rightly judged that, if the higher offices and the Executive Council were always held by those who could command a majority in the Assembly, the constitution of the Legislative Council was a matter of very little moment, inasmuch as the advisers of the Governor could always take care that its composition should be modified so as to suit their own purposes. They concentrated their powers, therefore, for the purpose of obtaining the responsibility of the Executive Council; and I cannot help contrasting the practical good sense of the English reformers of Upper Canada with the less prudent course of the French majority in the Assembly of Lower Canada, as exhibited in the different demands of constitutional change, most earnestly pressed by each. Both, in fact, desired the same object, namely, an extension of popular influence in the Government. The Assembly of Lower Canada attacked the Legislative Council; a body, of which the constitution was certainly the most open to obvious theoretical objections, on the part of all the advocates of popular institutions, but, for the same reason, most sure of finding powerful defenders at home. The reformers of Upper Canada paid little attention to the composition of the Legislative Council, and directed their exertions to obtaining such an alteration of the Executive Council as might have been obtained without any derangement of the constitutional balance of power; but they well knew, that if once they obtained possession of the Executive Council, and the higher offices of the Province, the Legislative Council would soon be unable to offer any effectual resistance to their meditated reforms.

It was upon this question of the responsibility of the Executive Council that the great struggle has for a long time been carried on between the official party and the reformers; for the official party, like all parties long in power, was naturally unwilling to submit itself to any such responsibility as would abridge its tenure, or cramp its exercise of authority. Reluctant to acknowledge any responsibility to the people of the Colony, this party appears to have paid a somewhat refractory and nominal submission to the Imperial Government, relying in

fact on securing a virtual independence by this nominal submission to the distant authority of the Colonial Department, or to the powers of a Governor, over whose policy they were certain, by their facilities of access, to obtain a paramount influence.

The views of the great body of the Reformers appear to have been limited, according to their favourite expression, to the making the Colonial Constitution "an exact transcript" of that of Great Britain; and they only desired that the Crown should in Upper Canada, as at home, entrust the administration of affairs to men possessing the confidence of the Assembly. It cannot be doubted, however, that there were many of the party who wished to assimilate the institutions of the Province rather to those of the United States than to those of the mother country. A few persons, chiefly of American origin, appear to have entertained these designs from the outset; but the number had at last been very much increased by the despair which many of those who started with more limited views conceived of their being ever carried into effect under the existing form of Government.

Each party, while it possessed the ascendancy, has been accused by its opponents of having abused its power over the public funds in those modes of local jobbing which I have described as so common in the North American Colonies. This, perhaps, is to be attributed partly to the circumstances adverted to above, as increasing the difficulty of obtaining any accurate information as to the real circumstances of the Province. From these causes it too often happened that the members of the House of Assembly come to the meeting of the legislature ignorant of the real character of the general interests entrusted to their guardianship, intent only on promoting sectional objects, and anxious chiefly to secure for the county they happen to represent, or the district with which they are connected, as large a proportion as possible of any funds which the legislature may have at its disposal. In Upper Canada, however, the means of doing this were never so extensive as those possessed by the Lower Province; and the great works which the Province commenced on a very extended scale, and executed in a spirit of great carelessness and pro-

fusion, have left so little surplus revenue, that this Province alone, among the North American Colonies, has fortunately for itself been compelled to establish a system of local assessments, and to leave local works, in a great measure, to the energy and means of the localities themselves. It is asserted, however that the nature of those great works, and the manner in which they were carried on, evinced merely a regard for local interests, and a disposition to strengthen party influence. The inhabitants of the less thickly peopled districts complained that the revenues of the Province were employed in works by which only the frontier population would benefit. The money absorbed by undertakings which they described as disproportioned to the resources and to the wants of the Province, would, they alleged, have sufficed to establish practicable means of communication over the whole country; and they stated, apparently not without foundation, that had this latter course been pursued, the population and the resources of the Province would have been so augmented as to make the works actually undertaken both useful and profitable. The carelessness and profusion which marked the execution of these works, the management of which, it was complained, was entrusted chiefly to members of the ruling party, were also assumed to be the result of a deliberate purpose, and to be permitted, if not encouraged, in order that a few individuals might be enriched at the expense of the community. Circumstances to which I shall hereafter advert, by which the further progress of these works has been checked, and the large expenses incurred in bringing them to their present state of forwardness have been rendered unavailing, have given greater force to these complaints; and, in addition to the discontent produced by the objects of the expenditure, the governing party has been made responsible for a failure in the accomplishment of these objects, attributable to causes over which it had no control. But to whatever extent these practices may have been carried, the course of the Parliamentary contest in Upper Canada has not been marked by that singular neglect of the great duties of a legislative body, which I have remarked in the proceedings of the Parliament of Lower Canada. The statute book of the Upper Province abounds with useful and well-constructed

measures of reform, and presents an honourable contrast to that of the Lower Province.

While the parties were thus struggling, the operation of a cause, utterly unconnected with their disputes, suddenly raised up a very considerable third party, which began to make its appearance among the political disputants about the time that the quarrel was at its height. I have said that in Upper Canada there is no animosity of races; there is nevertheless a distinction of origin, which has exercised a very important influence on the composition of parties, and appears likely, sooner or later, to become the prominent and absorbing element of political division. The official and reforming parties which I have described, were both composed, for the most part, and were almost entirely led, by native-born Canadians, American settlers, or emigrants of a very ancient date; and as one section of this more ancient population possessed, so another was the only body of persons that claimed the management of affairs, and the enjoyment of offices conferring emolument or power, until the extensive emigration from Great Britain, which followed the disastrous period of 1825 and 1826, changed the state of things, by suddenly doubling the population, and introducing among the ancient disputants for power, an entirely new class of persons. The new-comers, however, did not for a long time appear as a distinct party in the politics of Upper Canada. A large number of the higher class of emigrants, particularly the half-pay officers, who were induced to settle in this Province, had belonged to the Tory party in England, and, in conformity with their ancient predilections, naturally arrayed themselves on the side of the official party, contending with the representatives of the people. The mass of the humbler order of emigrants, accustomed in the mother country to complain of the corruption and profusion of the Government, and to seek for a reform of abuses by increasing the popular influence in the representative body, arrayed themselves on the side of those who represented the people, and attacked oligarchical power and abuses; but there was still a great difference of opinion between each of the two Canadian parties and that section of the British which for a while acted with it. Each of the Canadian parties, while it differed with the other

about the tenure of political powers in the Colony, desired almost the same degree of practical independence of the mother country; each felt and each betrayed in its political conduct a jealousy of the emigrants, and a wish to maintain the powers of office and the emoluments of the professions in the hands of persons born or long resident in the Colony. The British, on the contrary, to whichever party they belong, appear to agree in desiring that the connection with the mother country should be drawn closer. They differ very little among themselves, I imagine, in desiring such a change as should assimilate the Government of Upper Canada, in spirit as well as in form, to the Government of England, retaining an executive sufficiently powerful to curb popular excesses, and giving to the majority of the people, or to such of them as the less liberal would trust with political rights, some substantial control over the administration of affairs. But the great common object was, and is, the removal of those disqualifications to which British emigrants are subject, so that they might feel as citizens, instead of aliens, in the land of their adoption.

Such was the state of parties, when Sir F. Head, on assuming the government of the Colony, dismissed from the Executive Council some of the members who were most obnoxious to the House of Assembly, and requested three individuals to succeed them. Two of these gentlemen, Dr. Rolph and Mr. R. Baldwin, were connected with the reforming party, and the third, Mr. Dunn, was an Englishman, who had held the office of Receiver General for nearly 14 years, and up to that time had abstained from any interference in politics. These gentlemen were, at first, reluctant to take office, because they feared that, as there were still three of the former Council left, they should be constantly maintaining a doubtful struggle for the measures which they considered necessary. They were, however, at length induced to forego their scruples, chiefly upon the representations of some of their friends, that when they had a Governor who appeared sincere in his professions of reform, and who promised them his entire confidence, it was neither generous nor prudent to persist in a refusal which might be taken to imply distrust of his sincerity; and they accordingly accepted office. Among the first acts of the Go-

vernor, after the appointment of this Council, was, however, the nomination to some vacant offices of individuals, who were taken from the old official party, and this without any communication with his Council. These appointments were attacked by the House of Assembly, and the new Council, finding that their opinion was never asked upon these, or other matters, and that they were seemingly to be kept in ignorance of all those public measures, which popular opinion nevertheless attributed to their advice, remonstrated privately on the subject with the Governor. Sir Francis desired them to make a formal representation to him on the subject; they did so, and this produced such a reply from him, as left them no choice but to resign. The occasion of the differences which had caused the resignation, was made the subject of communication between the Governor and the Assembly, so that the whole community were informed of the grounds of the dispute.

The contest which appeared to be thus commenced on the question of the responsibility of the Executive Council, was really decided on very different grounds. Sir F. Head, who appears to have thought that the maintenance of the connection with Great Britain depended upon his triumph over the majority of the Assembly, embarked in the contest, with a determination to use every influence in his power, in order to bring it to a successful issue. He succeeded, in fact, in putting the issue in such a light before the Province, that a great portion of the people really imagined that they were called upon to decide the question of separation by their votes. The dissolution, on which he ventured, when he thought the public mind sufficiently ripe, completely answered his expectations. The British, in particular, were roused by the proclaimed danger to the connection with the mother country; they were indignant at some portions of the conduct and speeches of certain members of the late majority, which seemed to mark a determined preference of American over British Institutions. They were irritated by indications of hostility to British emigration, which they saw, or fancied they saw, in some recent proceedings of the Assembly. Above all, not only they, but a great many others, had marked with envy the stupendous public works which were

at that period producing their effect in the almost marvellous growth of the wealth and population of the neighbouring state of New York; and they reproached the Assembly with what they considered an unwise economy, in preventing the undertaking or even completion of similar works, that might, as they fancied, have produced a similar development of the resources of Upper Canada. The general support of the British determined the elections in favour of the Government; and though very large and close minorities, which in many cases supported the defeated candidates, marked the force which the reformers could bring into the field, even in spite of the disadvantages under which they laboured from the momentary prejudices against them, and the unusual manner in which the Crown, by its representative, appeared to make itself a party in an electioneering contest, the result was the return of a very large majority hostile in politics to that of the late Assembly.

It is rather singular, however, that the result which Sir F. Head appears really to have aimed at, was by no means secured by this apparent triumph. His object in all his previous measures, and in the nomination of the executive Councillors, by whom he replaced the retiring members, was evidently to make the Council a means of administrative independence for the Governor. Sir F. Head would seem to have been, at the commencement of his administration, really desirous of effecting certain reforms which he believed to be needful, and of rescuing the substantial power of the Government from the hands of the party by which it had been so long monopolized. The dismissal of the old members of the Executive Council was the consequence of this intention; but though willing to take measures for the purpose of emancipating himself from the thraldom in which it was stated that other Governors had been held, he could not acquiesce in the claims of the House of Assembly to have a really responsible Colonial Executive. The result of the elections was to give him, as he conceived, a House of Assembly pledged to support him, as Governor, in the exercise of the independent authority he had claimed. On the very first occasion, however, on which he attempted to protect an officer of he

Government, unconnected with the old official party, from charges which, whether well or ill founded, were obviously brought forward on personal grounds, he found that the new House was even more determined than its predecessor to assert its right to exercise a substantial control over the Government; and that, unless he was disposed to risk a collision with both branches of the legislature, then composed of similar materials, and virtually under one influence, he must succumb. Unwilling to incur this risk, when, as he justly imagined, there was no party upon whose support he could rely to bear him safely through the contest, he yielded the point. Although the committee appointed to inquire into the truth of the charges made against Mr. Hepburn refused to adopt a report confirming these charges prepared by their chairman (by whom the accusation had been brought forward, and by whom the committee was virtually nominated), Sir F. Head persuaded the individual in question to resign his office, and to take one of very inferior emolument. From that time he never attempted to assert the independence which the New House of Assembly had been elected to secure. The Government consequently reverted in effect to the party which he had found in office when he assumed the Governorship, and which it had been his first act to dispossess. In their hands it still remains; and I must state that it is the general opinion, that never was the power of the "family compact" so extensive or so absolute as it has been from the first meeting of the existing Parliament down to the present time.

It may, indeed, be fairly said, that the real result of Sir F. Head's policy was to establish that very administrative influence of the leaders of a majority in the Legislature which he had so obstinately disputed. The Executive Councillors of his nomination, who seem to have taken office almost on the express condition of being mere ciphers, are not, in fact, then, the real Government of the Province. It is said that the new officers of Government, whom Sir F. Head appointed from without the pale of official eligibility, feel more apprehension of the present House than, so far as can be judged, was ever felt by their predecessors with regard to the most

violent of the reforming Houses of Assembly. Their apprehension, however, is not confined to the present House; they feel that, under no conceivable contingency, can they expect an Assembly disposed to support them; and they accordingly appear to desire such a change in the colonial system as might make them dependent upon the Imperial Government alone, and secure them against all interference from the Legislature of the Province, whatever party should obtain a preponderance in the Assembly.

While the nominal Government thus possesses no real power, the Legislature, by whose leaders the substantial power is enjoyed, by no means possesses so much of the confidence of the people as a Legislature ought to command, even from those who differ from it on the questions of the day. I say this without meaning to cast any imputation on the Members of the House of Assembly, because, in fact, the circumstances under which they were elected, were such as to render them peculiarly objects of suspicion and reproach to a large number of their countrymen. They were accused of having violated their pledges at the election. It is said that many of them came forward and were elected, as being really reformers, though opposed to any such claims to colonial independence as might involve a separation from the mother country. There seems to be no doubt that in several places, where the Tories succeeded, the electors were merely desirous of returning members who would not hazard any contest with England, by the assertion of claims which, from the proclamation of the Lieutenant Governor, they believed to be practically needless; and who should support Sir F. Head in those economical reforms which the country desired, far more than political changes—reforms, for the sake of which alone political changes had been sought. In a number of other instances, too, the elections were carried by the unscrupulous exercise of the influence of the Government, and by a display of violence on the part of the Tories, who were emboldened by the countenance afforded to them by the authorities. It was stated, but I believe without any sufficient foundation, that the Government made grants of land to persons who had no title to them, in order to secure their votes. This report

originated in the fact, that patents for persons who were entitled to grants, but had not taken them out, were sent down to the polling places, to be given to the individuals entitled to them, if they were disposed to vote for the Government candidate. The taking such measures, in order to secure their fair right of voting to the electors in a particular interest, must be considered rather as an act of official favouritism, than as an electoral fraud. But we cannot wonder that the defeated party put the very worst construction on acts which gave some ground for it; and they conceived, in consequence, a strong resentment against the means by which they believed that the representative of the Crown had carried the elections, his interference in which in any way was stigmatized by them as a gross violation of constitutional privilege and propriety.

It cannot be matter of surprise, that such facts and such impressions produced in the country an exasperation and a despair of good Government, which extended far beyond those who had actually been defeated at the poll. For there was nothing in the use which the leaders of the Assembly have made of their power, to soften the discontent excited by their alleged mode of obtaining it. Many even of those who had supported the successful candidates, were disappointed in every expectation which they had formed of the policy to be pursued by their new representatives. No economical reforms were introduced. The Assembly, instead of supporting the Governor, compelled his obedience to itself, and produced no change in the administration of affairs, except that of reinstating the "family compact" in power. On some topics, on which the feelings of the people were very deeply engaged, as, for instance, the clergy reserves, the Assembly is accused of having shown a disposition to act in direct defiance of the known sentiments of a vast majority of its constituents. The dissatisfaction arising from these causes was carried to its height, by an Act that appeared, in defiance of all constitutional right, to prolong the power of a majority which, it was supposed, counted on not being able to retain its existence after another appeal to the people. This was the passing an Act preventing the dissolution of the existing, as well as any future Assembly, on the demise of the Crown. The Act was

passed in expectation of the approaching decease of his late Majesty; and it has, in fact, prolonged the existence of the present Assembly from the period of a single year to one of four. It is said that this step is justified by the example of the other North American Colonies. But it is certain that it nevertheless caused very great dissatisfaction, and was regarded as an unbecoming usurpation of power.

It was the prevalence of the general dissatisfaction thus caused, that emboldened the parties who instigated the insurrection to an attempt, which may be characterized as having been as foolishly contrived and as ill-conducted, as it was wicked and treasonable. This outbreak, which common prudence and good management would have prevented from coming to a head, was promptly quelled by the alacrity with which the population, and especially the British portion of it, rallied round the Government. The proximity of the American frontier, the nature of the border country, and the wild and daring character, together with the periodical want of employment of its population, have unfortunately enabled a few desperate exiles to continue the troubles of their country, by means of the predatory gangs which have from time to time invaded and robbed, under the pretext of revolutionizing the Province. But the general loyalty of the population has been evinced by the little disposition that has been exhibited by any portion of it to accept of the proffered aid of the refugees and foreign invaders, and by the unanimity with which all have turned out to defend their country.

It has not, indeed, been exactly ascertained what proportion of the inhabitants of Upper Canada were prepared to join Mackenzie in his treasonable enterprize, or were so disposed that we may suppose they would have arrayed themselves on his side, had he obtained any momentary success, as indeed was for some days within his grasp. Even if I were convinced that a large proportion of the population would, under any circumstances, have lent themselves to his projects, I should be inclined to attribute such a disposition merely to the irritation produced by those temporary causes of dissatisfaction with the government of the Province which I have specified, and not to any settled design on the part of

any great number, either to subvert existing institutions, or to change their present connection with Great Britain for a junction with the United States. I am inclined to view the insurrectionary movements which did take place as indicative of no deep-rooted disaffection, and to believe that almost the entire body of the reformers of this Province sought only by constitutional means to obtain those objects for which they had so long peaceably struggled before the unhappy troubles occasioned by the violence of a few unprincipled adventurers and heated enthusiasts.

It cannot, however, be doubted, that the events of the past year have greatly increased the difficulty of settling the disorders of Upper Canada. A degree of discontent, approaching, if not amounting to disaffection, has gained considerable ground. The causes of dissatisfaction continue to act on the minds of the reformers; and their hope of redress, under the present order of things, has been seriously diminished. The exasperation caused by the conflict itself, the suspicions and terrors of that trying period, and the use made by the triumphant party of the power thrown into their hands, have heightened the passions which existed before. It certainly appeared too much as if the rebellion had been purposely invited by the Government, and the unfortunate men who took part in it deliberately drawn into a trap by those who subsequently inflicted so severe a punishment on them for their error. It seemed, too, as if the dominant party made use of the occasion afforded it by the real guilt of a few desperate and imprudent men, in order to persecute or disable the whole body of their political opponents. A great number of perfectly innocent individuals were thrown into prison, and suffered in person, property, and character. The whole body of reformers were subjected to suspicion, and to harassing proceedings, instituted by magistrates whose political leanings were notoriously adverse to them. Severe laws were passed, under colour of which, individuals very generally esteemed were punished without any form of trial.

The two persons who suffered the extreme penalty of the law unfortunately engaged a great share of the public sympathy; their pardon had been solicited in petitions, signed, it

is generally asserted, by no less than 30,000 of their countrymen. The rest of the prisoners were detained in confinement a considerable time. A large number of the subordinate actors in the insurrection were severely punished, and public anxiety was raised to the highest pitch by the uncertainty respecting the fate of the others, who were from time to time partially released. It was not until the month of October last that the whole of the prisoners were disposed of, and a partial amnesty proclaimed, which enabled the large numbers who had fled the country, and so long, and at such imminent hazard, hung on its frontier, to return in security to their homes. I make no mention of the reasons which, in the opinion of the local government, rendered these different steps advisable, because my object is not to discuss the propriety of its conduct, but to point out the effect which it necessarily had in augmenting irritation.

The whole party of the reformers, a party which I am inclined to estimate as very considerable, and which has commanded large majorities in different Houses of Assembly, has certainly felt itself assailed by the policy pursued. It sees the whole powers of Government wielded by its enemies, and imagines that it can perceive also a determination to use these powers inflexibly against all the objects which it most values. The wounded private feelings of individuals, and the defeated public policy of a party, combine to spread a wide and serious irritation; but I do not believe that this has ye proceeded so far as to induce at all a general disposition to look to violent measures for redress. The reformers have been gradually recovering their hopes of regaining their ascendancy by constitutional means; the sudden pre-eminence which the question of the clergy reserves and rectories has again assumed during the last summer, appears to have increased their influence and confidence; and I have no reason to believe that any thing can make them generally and decidedly desirous of separation, except some such act of the Imperial Government as shall deprive them of all hopes of obtaining real administrative power, even in the event of their again obtaining a majority in the Assembly. With such a hope before them, I believe that they will remain in tranquil

expectation of the result of the general election, which cannot be delayed beyond the summer of 1840.

To describe the character and objects of the other parties in this Province would not be very easy; and their variety and complication is so great, that it would be of no great advantage were I to explain the various shades of opinion that mark each. In a very laboured essay, which was published in Toronto during my stay in Canada, there was an attempt to classify the various parties in the Province under six different heads. Some of these were classified according to strictly political opinions, some according to religion, and some according to birthplace; and each party, it was obvious, contained in its ranks a great many who would, according to the designation used, have as naturally belonged to some other. But it is obvious, from all accounts of the different parties, that the nominal Government, that is, the majority of the Executive Council, enjoy the confidence of no considerable party, and that the party called the "family compact," which possesses the majority in both branches of the Legislature, is, in fact, supported at present by no very large number of persons of any party. None are more hostile to them than the greater part of that large and spirited British-born population, to whose stedfast exertions the preservation of the Colony during the last winter is mainly attributable, and who see with indignation that a monopoly of power and profit is still retained by a small body of men, which seems bent on excluding from any participation in it the British emigrants. Zealously co-operating with the dominant party in resisting treason and foreign invasion, this portion of the population, nevertheless, entertains a general distrust and dislike of them; and though many of the most prominent of the British emigrants have always acted and still invariably act in opposition to the reformers, and dissent from their views of responsible government, I am very much inclined to think that they, and certainly the great mass of their countrymen, really desire such a responsibility of the government, as would break up the present monopoly of office and influence.

Besides those causes of complaint which are common to the whole of the Colony, the British settlers have many pe-

culiar to themselves. The emigrants who have settled in the country within the last ten years, are supposed to comprise half the population. They complain that while the Canadians are desirous of having British capital and labour brought into the Colony, by means of which their fields may be cultivated, and the value of their unsettled possessions increased, they refuse to make the Colony really attractive to British skill and British capitalists. They say that an Englishman emigrating to Upper Canada, is practically as much an alien in that British Colony as he would be if he were to emigrate to the United States. He may equally purchase and hold lands, or invest his capital in trade in one country as in the other, and he may in either exercise any mechanical avocation, and perform any species of manual labour. This, however, is the extent of his privileges ; his English qualifications avail him little or nothing. He cannot, if a surgeon, licensed to act in England, practise without the license of a Board of Examiners in the Province. If an attorney, he has to submit to an apprenticeship of five years before he is allowed to practise. If a barrister, he is excluded from the profitable part of his profession, and though allowed to practise at the bar, the permission thus accorded to him is practically of no use in a country where, as nine attorneys out of ten are barristers also, there can be no business for a mere barrister. Thus, a person who has been admitted to the English bar, is compelled to serve an apprenticeship of three years to a Provincial lawyer.

By an Act passed last Session, difficulties are thrown in the way of the employment of capital in banking, which have a tendency to preserve the monopoly possessed by the chartered banks of the Colony, in which the Canadian party are supreme, and the influence of which is said to be employed directly as an instrument for upholding the political supremacy of the party. Under the system also, of selling land, pursued by the Government, an individual does not acquire a patent for his land until he has paid the whole of the purchase-money, a period of from four to ten years, according as his purchase is a Crown or clergy lot ; and until the patent issues, he has no right to vote. In some of the new states of America,

on the contrary, especially in Illinois, an individual may practise as a surgeon or lawyer almost immediately on his arrival in the country, and he has every right of citizenship after a residence of six months in the state. An Englishman is, therefore, in effect less an alien in a foreign country than in one which forms a part of the British Empire. Such are the superior advantages of the United States at present, that nothing but the feeling that in the one country he is among a more kindred people, under the same laws, and in a society whose habits and sentiments are similar to those to which he has been accustomed, can induce an Englishman to settle in Canada, in preference to the States ; and if, in the former, he is deprived of rights which he obtains in the latter, though a foreigner, it is not to be wondered at that he should, in many cases, give the preference to the land in which he is treated most as a citizen. It is very possible that there are but few cases in which the departure of an Englishman from Upper Canada to the States can be traced directly to any of these circumstances in particular ; yet the state of society and of feeling which they have engendered, has been among the main causes of the great extent of re-emigration to the new states of the Union. It operates, too, still more to deter emigration from England to the Provinces, and thus both to retard the advance of the Colony, and to deprive the mother country of one of the principal advantages on account of which the existence of Colonies is desirable—the field which they afford for the employment of her surplus population and wealth. The native Canadians, however, to whatever political party they may belong, appear to be unanimous in the wish to preserve these exclusive privileges. The course of legislation, since the tide of emigration set most strongly to the country, and while under its influence the value of all species of property was rising, and the resources of the Province were rapidly, and (for the old inhabitants) profitably developed, has been to draw a yet more marked line between the two classes, instead of obliterating the former distinctions. The law excluding English lawyers from practice is of recent origin. The Speaker of the reforming House of Assembly, Mr. Bidwell, was among the strongest opponents of any alteration of that law which

might render it less rigidly exclusive, and, on more than one occasion, gave his casting vote against a Bill having for its object the admission of an English lawyer to practice in the Province without serving a previous apprenticeship. This point is of more importance in a Colony than it would at first sight appear, to any one accustomed only to such a state of society as exists in England. The members of the legal profession are in effect the leaders of the people, and the class from which, in a larger proportion than from any other class, legislators are taken. It is, therefore, not merely a monopoly of profit, but, to a considerable extent, a monopoly of power, which the present body of lawyers contrive, by means of this exclusion, to secure to themselves. No man of mature age emigrating to a Colony, could afford to lose five years of his life in an apprenticeship from which he could acquire neither learning nor skill. The few professional men, therefore, who have gone to Upper Canada have turned their attention to other pursuits, retaining, however, a strong feeling of discontent against the existing order of things. And many who might have emigrated remain at home, or seek some other Colony where their course is not impeded by similar restrictions.

But as in Upper Canada, under a law passed immediately after the last war with the States, American citizens are forbidden to hold land, it is of the more consequence that the country should be made as attractive as possible to the emigrating middle classes of Great Britain, the only class from which an accession of capital, to be invested in the purchase or improvement of lands, can be hoped for. The policy of the law just referred to may well be doubted, whether the interests of the Colony or of the mother country are considered, since the wealth and activity, and consequent commerce of the Province, would have been greatly augmented, had its natural advantages of soil and position been allowed to operate in attracting those who were most aware of their existence, and eminently fitted to aid in their development; and there is great reason to believe that the uncertainty of the titles which many Americans possess to the land on which they have squatted since the passing of this law, is the main

cause of much of the disloyalty, or rather very lukewarm loyalty, evinced by that population in the western district. But when this exclusion had been determined upon, it would at least have been wise to have removed every thing that might have seemed like an obstacle in the way of those for whom the land was to be kept open, instead of closing the principal avenues to wealth or distinction against them in a spirit of petty provincial jealousy.

The great practical question, however, on which these various parties have for a long time been at issue, and which has within a very few months again become the prominent matter in debate, is that of the clergy reserves. The prompt and satisfactory decision of this question is essential to the pacification of Canada; and as it was one of the most important questions referred to me for investigation, it is necessary that I should state it fully, and not shrink from making known the light in which it has presented itself to my mind. The disputes on this subject are now of long standing. By the Constitutional Act a certain portion of the land in every township was set apart for the maintenance of a "Protestant clergy." In that portion of this Report which treats of the management of the waste lands, the economical mischiefs which have resulted from this appropriation of territory, are fully detailed; and the present disputes relate solely to the application, and not to the mode of raising, the funds, which are now derived from the sale of the clergy reserves. Under the term "Protestant Clergy," the clergy of the Church of England have always claimed the sole enjoyment of these funds. The members of the Church of Scotland have claimed to be put entirely on a level with the Church of England, and have demanded that these funds should be equally divided between both. The various denominations of Protestant Dissenters have asserted that the term includes them, and that out of these funds an equal provision should be made for all Christians who do not belong to the Church of Rome. But a great body of all Protestant denominations, and the numerous Catholics who inhabit the Province, have maintained that any such favour towards any one, or even all of the Protestant sects, would be most unadvisable, and have either demanded the

equal application of those funds to the purposes of all religious creeds whatsoever, or have urged the propriety of leaving each body of religionists to maintain its own establishment, to repeal or disregard the law, and to apply the clergy funds to the general purposes of the Government, or to the support of a general system of education.

The supporters of these different schemes having long contended in this Province, and greatly inconvenienced the Imperial Government, by constant references to its decision, the Secretary of State for the Colonies proposed to leave the determination of the matter to the provincial Legislatures, pledging the Imperial Government to do its utmost to get a Parliamentary sanction to whatever course they might adopt. Two Bills, in consequence, passed the last House of Assembly, in which the reformers had the ascendancy, applying these funds to the purposes of education; and both these Bills were rejected by the Legislative Council.

During all this time, however, though much irritation had been caused by the exclusive claims of the Church of England, and the favour shown by the Government to one, and that a small religious community, the clergy of that church, though an endowed, were not a dominant, priesthood. They had a far larger share of the public money than the clergy of any other denomination; but they had no exclusive privileges, and no authority, save such as might spring from their efficient discharge of their sacred duties, or from the energy, ability, or influence of members of their body. But the last public act of Sir John Colborne, before quitting the Government of the Province in 1835, which was the establishment of the fifty-seven Rectories, has completely changed the aspect of the question. It is understood that every rector possesses all the spiritual and other privileges enjoyed by an English rector; and that though he may have no right to levy tithes (for even this has been made a question), he is in all other respects in precisely the same position as a clergyman of the Established Church in England. This is regarded by all other teachers of religion in the country as having at once degraded them to a position of legal inferiority to the clergy of the Church of England; and it has been resented most warmly.

In the opinion of many persons, this was the chief pre-disposing cause of the recent insurrection, and it is an abiding and unabated cause of discontent. Nor is this to be wondered at. The Church of England in Upper Canada, by numbering in its ranks all those who belong to no other sect, represents itself as being more numerous than any single denomination of Christians in the country. Even admitting, however, the justice of the principle upon which this enumeration proceeds, and giving that Church credit for all that it thus claims, its number could not amount to one-third, probably not a fourth, of the population. It is not, therefore, to be expected that the other sects, three at least of whom, the Methodists, the Presbyterians, and the Catholics, claim to be individually more numerous than the Church of England, should acquiesce quietly in the supremacy thus given to it. And it is equally natural that the English Dissenters and Irish Catholics, remembering the position which they have occupied at home, and the long and painful struggle through which alone they have obtained the imperfect equality they now possess, should refuse to acquiesce for themselves in the creation of a similar establishment in their new country, and thus to bequeath to their children a strife as arduous and embittered as that from which they have so recently and imperfectly escaped.

But for this act, it would have been possible, though highly impolitic, to have allowed the clergy reserves to remain upon their former undetermined and unsatisfactory footing. But the question as to the application of this property must now be settled, if it is intended that the Province is to be free from violent and perilous agitation. Indeed, the whole controversy, which had been in a great measure suspended by the insurrection, was, in the course of the last summer, revived with more heat than ever by the most inopportune arrival in the Colony of opinions given by the English Law Officers of the Crown in favour of the legality of the establishment of the rectories. Since that period, the question has again absorbed public attention; and it is quite clear that it is upon this practical point that issue must sooner or later be joined on all the constitutional questions to which

I have previously adverted. I am well aware that there are not wanting some who represent the agitation of this question as merely the result of its present unsettled character, and who assert, that if the claims of the English Church to the exclusive enjoyment of this property were established by the Imperial Parliament, all parties, however loud their present pretensions, or however vehement their first complaints, would peacefully acquiesce in an arrangement which would then be inevitable. This might be the case if the establishment of some dominant church were inevitable. But it cannot be necessary to point out that, in the immediate vicinity of the United States, and with their example before the people of Canada, no injustice, real or fancied, occasioned and supported by a British rule, would be regarded in this light. The result of any determination on the part of the British Government or Legislature to give one sect a predominance and superiority, would be, it might be feared, not to secure the favoured sect, but to endanger the loss of the Colony, and, in vindicating the exclusive pretensions of the English Church, to hazard one of the fairest possessions of the British Crown.

I am bound, indeed, to state, that there is a degree of feeling, and an unanimity of opinion, in the question of ecclesiastical establishments over the northern part of the continent of America, which it will be prudent not to overlook in the settlement of this question. The superiority of what is called "the voluntary principle" is a question on which I may almost say that there is no difference of opinion in the United States; and it cannot be denied, that on this, as on other points, the tone of thought prevalent in the Union has exerted a very considerable influence over the neighbouring Provinces. Similar circumstances, too, have had the effect of accustoming the people of both countries to regard this question in a very different light from that in which it appears in the Old World; and the nature of the question is indeed entirely different in old and new countries. The apparent right which time and custom give to the maintenance of an ancient and respected institution cannot exist in a recently settled country, in which every thing is new; and the establishment of a dominant Church there, is a crea-

tion of exclusive privileges in favour of one out of many religious denominations, and that composing a small minority, at the expense not merely of the majority, but of many as large minorities. The Church too, for which alone it is proposed that the State should provide, is the Church which, being that of the wealthy, can best provide for itself, and has the fewest poor to supply with gratuitous religious instruction. Another consideration, which distinguishes the grounds on which such a question must be decided in old and new countries, is, that the state of society in the latter is not susceptible of such an organization as is necessary for the efficiency of any Church Establishment of which I know, more especially of one so constituted as the Established Church of England; for the essence of the Establishment is its parochial clergy. The services of a parochial clergy are almost inapplicable to a colony, where a constantly varying population is widely scattered over the country. Any clergy there must be rather missionary than parochial.

A still stronger objection to the creation of a Church establishment in this Colony is, that not merely are the members of the Church of England a small minority at present; but, inasmuch as the majority of emigrants are not members of the Church of England, the disproportion is likely to increase, instead of disappearing, in the course of time. The mass of British emigrants will be either from the middle classes of Great Britain, or the poorer classes of Ireland; the latter almost exclusively Catholics, and the former in a great proportion either Scotch Presbyterians or English Dissenters.

It is most important that this question should be settled, and so settled as to give satisfaction to the majority of the people of the two Canadas, whom it equally concerns. And I know of no mode of doing this but by repealing all provisions in Imperial Acts that relate to the application of the clergy reserves, and the funds arising from them, leaving the disposal of the funds to the local legislature, and acquiescing in whatever decision it may adopt. The views which I have expressed on this subject sufficiently mark my conviction, that, without the adoption of such a course, the most mischievous practical cause of dissension will not be removed.

I feel it my duty also, in this as in the Lower Province, to

call especial attention to the policy which has been, and which ought to be, pursued towards the large Catholic population of the Province. On this subject I have received complaints of a general spirit of intolerance and disfavour towards all persons of this creed, to which I am obliged to give considerable credit, from the great respectability and undoubted loyalty of those from whom the complaints were received. Bishop M'Donnell, the venerable Roman Catholic Bishop of Kingston, and Mr. Manahan, M. P. P. for the county of Hastings, have made representations in letters, which will be given in the Appendix to this Report. The Catholics constitute at least a fifth of the whole population of Upper Canada. Their loyalty was most generally and unequivocally exhibited at the late outbreak. Nevertheless, it is said that they are wholly excluded from all share in the government of the country and the patronage at its disposal. "In Upper Canada," says Mr. Manahan, there never was one Irish Roman Catholic an Executive or Legislative Councillor; nor has one been ever appointed to any public situation of emolument and profit in the Colony."

The Irish Catholics complain very loudly and justly of the existence of Orangeism in this Colony. They are justly indignant that, in a Province which their loyalty and bravery have materially contributed to save, their feelings are outraged by the symbols and processions of this association. It is somewhat difficult to understand the nature and objects of the rather anomalous Orangeism of Upper Canada. Its members profess to desire to uphold the Protestant religion, but to be free from those intolerant feelings towards their Catholic countrymen, which are the distinctive marks of the Irish Orangemen. They assert, that their main object, to which the support of the English Church is subsidiary, is to maintain the connection with Great Britain. They have sworn, it is said, many ignorant Catholics into their body; and at their public dinners, after drinking the "pious, glorious, and immortal memory," with all the usual formality of abuse of the Catholics, they toast the health of the Catholic Bishop, M'Donnell. It would seem that their great purpose has been to introduce the

machinery, rather than the tenets, of Orangeism; and the leaders probably hope to make use of this kind of permanent conspiracy and illegal organization to gain political power for themselves. In fact, the Catholics scarcely appear to view this institution with more jealousy than the Reformers of the Province. It is an Irish Tory institution, having not so much a religious as a political bearing. The Irish Catholics who have been initiated have entered it chiefly from its supposed national character, and probably with as little regard to the political as to the religious objects with which it is connected. Still the organization of this body enables its leaders to exert a powerful influence over the populace; and it is stated that, at the last general election, the Tories succeeded in carrying more than one seat by means of the violence of the organized mob thus placed at their disposal. It is not, indeed, at the last election only that the success of the Government candidate has been attributed to the existence of this association. At former elections, especially those for the county of Leeds, it is asserted that the return of the Canadian Deputy Grand Master, and of the then Attorney Genraal, his colleague, was procured by means of a violent and riotous mob of Orangemen, who prevented the voters in the opposition interest from coming up to the poll. In consequence of this and other similar outrages, the Assembly presented an Address to Sir Francis Head, begging "that his Excellency would be pleased to inform the House whether the Government of the Province had taken, or determined to take, any steps to prevent or discourage public processions of Orange societies, or to discourage the formation and continuance of such societies." To this Address the Governor made the following reply:—"The Government of this Province has neither taken, nor has it determined to take, any steps to prevent or discourage the formation or continuance of such societies." It is to be presumed that this answer proceeded from a disbelief of the truth of those charges of outrage and riot which were made the foundation of the address. But it can excite no surprise that the existence of such an institution, offending one class by its contemptuous hostility to their religion, and another by its violent opposition to their politics, and which had been sanctioned by the Governor, as was con-

ceived, on account of its political tendencies, should excite among both classes a deep feeling of indignation, and add seriously to the distrust with which the Government was regarded.

In addition to the irritation engendered by the position of parties, by the specific causes of dispute to which I have adverted, and by those features in the Government of the Colony which deprive the people of all power to effect a settlement of the questions by which the country is most deeply agitated, or to redress abuses in the institutions, or in the administration of the Province, there are permanent causes of discontent, resulting from the existence of deep-seated impediments in the way of its industrial progress. The Province is without any of those means by which the resources of a country are developed, and the civilization of a people is advanced or upheld. The general administration of justice, it is true, appears to be much better in Upper than in Lower Canada. Courts of Justice, at least, are brought into every man's neighbourhood by a system of circuits; and there is still some integrity in juries. But there are general complaints of the union of political and judicial functions in the Chief Justice; not because any suspicion attaches to that Judge's discharge of his duties, but on account of the party grounds upon which his subordinates are supposed to be appointed, and the party bias attributed to them. Complaints, too, similar to those which I have adverted to in the Lower Province, are made against the system by which the Sheriffs are appointed. It is stated, that they are selected exclusively from the friends or dependents of the ruling party; that very insufficient securities are taken from them; and that the money arising from executions and sales, which are represented as unhappily very numerous in this Province, generally remains in their hands for at least a year. For reasons also which I have specified in my account of the Lower Province, the composition of the Magistracy appears to be a serious cause of mischief and dissatisfaction.

But independently of these sources of complaint, are the impediments which I have mentioned. A very considerable portion of the Province has neither roads, post-offices, mills, schools, nor churches. The people may raise enough for their

own subsistence, and may even have a rude and comfortless plenty, but they can seldom acquire wealth; nor can even wealthy land-owners prevent their children from growing up ignorant and boorish, and from occupying a far lower mental, moral, and social position than they themselves fill. Their means of communication with each other, or the chief towns of the Province, are unlimited and uncertain. With the exception of the labouring class, most of the emigrants who have arrived within the last ten years, are poorer now than at the time of their arrival in the Province. There is no adequate system of local assessment to improve the means of communication; and the funds occasionally voted for this purpose are, under the present system, disposed of by a House of Assembly which represents principally the interests of the more settled districts, and which, it is alleged, has been chiefly intent in making their disposal a means of strengthening the influence of its members in the constituencies which they represent. These funds have consequently almost always been applied in that part of the country where they were least needed; and they have been too frequently expended so as to produce scarcely any perceptible advantages. Of the lands which were originally appropriated for the support of schools throughout the country, by far the most valuable portion has been diverted to the endowment of the University, from which those only derive any benefit who reside in Toronto, or those who, having a large assured income, are enabled to maintain their children in that town at an expense which has been estimated at 50*l.* per annum for each child. Even in the most thickly peopled districts there are but few schools, and those of a very inferior character; while the more remote settlements are almost entirely without any.

Under such circumstances there is little stimulus to industry or enterprise, and their effect is aggravated by the striking contrast presented by such of the United States as border upon this province, and where all is activity and progress. I shall hereafter, in connection with the disposal of the public lands, advert to circumstances affecting not Upper Canada merely, but the whole of our North American Colonies in an almost equal degree, which will illustrate in detail the causes and

results of the more prominent of these evils. I have referred to the topic in this place, in order to notice the inevitable tendency of these inconveniences to aggravate whatever discontent may be produced by purely political causes, and to draw attention to the fact, that those who are most satisfied with the present political state of the Province, and least disposed to attribute economical injuries or social derangement to the form of the working of the Government, feel and admit that there must have been something wrong to have caused so striking a difference in progress and wealth between Upper Canada and the neighbouring states of the Union. I may also observe, that these evils affect chiefly that portion of the people which is composed of British emigrants, and who have had no part in the causes to which they are attributable. The native-born Canadians, as they generally inhabit the more settled districts of the Province, are the owners of nearly all the waste lands, and have almost exclusively had the application of all public funds, might be expected to have escaped from the evils alluded to, and even to have profited by the causes out of which they have sprung. The number of those who have thus profited is, however, comparatively small; the majority of this class, in common with the emigrant population, have suffered from the general depression, and share in the discontent and restlessness which this depression has produced.

The trade of the country is, however, a matter which appears to demand a notice here, because so long as any such marked and striking advantages in this respect are enjoyed by Americans, as at present arise from causes which Government has the power to remove, it is impossible but that many will look forward with desire to political changes. There are laws which regulate, or rather prohibit, the importation of particular articles, except from England, especially of tea, which were framed originally to protect the privileges of monopolies here: but which have been continued in the Province after the English monopoly has been removed. It is not that these laws have any appreciable effect in raising the price of the commodities in question: almost all used in the Province is smuggled across the frontier: but their operation is at once injurious to the fair dealer, who is undersold by persons who

have obtained their articles in the cheaper market of the United States, and to the Province, which can neither regulate the traffic, nor make it a source of revenue. It is probable, indeed, that the present law has been allowed to continue through inadvertence; but, if so, it is no very satisfactory evidence of the care or information of the Imperial Government, that it knows or feels so little the oppressive influence of the laws to which it subjects its dependencies.

Another and more difficult topic connected with this subject, is the wish of this Province that it should be allowed to make use of New York as a port of entry. At present the rate of duty upon all goods coming from the United States, whatever may be their nature, or the port in Europe from which they have been shipped, is such as to compel all importers to receive the articles of their trade through the Saint Lawrence, the navigation of which river opens generally several weeks later than the time at which goods may be obtained in all the parts of Upper Canada bordering upon Lake Ontario, by way of Oswego. The dealer, therefore, must submit to an injurious delay in his business, or must obtain his goods in the autumn, and have his capital lying dead for six months. Either of these courses must lessen the amount of traffic, by diminishing the quantity, or increasing the price, of all commodities: and the mischief is seriously enhanced by the monopoly which the present system places in the hands of what are called the "forwarders" on the Saint Lawrence and the Rideau Canal. If goods might be shipped from England to be landed at New York in bond, and to be admitted into Upper Canada free of duty, upon the production of a certificate from the officer of customs at the English port from which they are shipped, this inconvenience would be removed, and the people of the Province would in reality benefit by their connection with England, in the superior cheapness of their articles, without paying for it as highly as they do at present in the limitation of their commerce.

I have already stated, in my account of Lower Canada, the difficulties and disputes which are occasioned by the financial relations of the two Provinces. The state of affairs, however, which causes these disputes is of far greater practical mischief

to Upper Canada. That Province some years ago conceived the very noble project of removing or obviating all the natural impediments to the navigation of the Saint Lawrence; and the design was to make these works on a scale so commensurate with the capabilities of that broad and deep river, as to enable sea-going vessels to navigate its whole course to the head of Lake Huron. The design was, perhaps, too vast, at least for the first effort of a State at that time comparatively so small and poor; but the boldness with which the people undertook it, and the immense sacrifices which they made in order to achieve it, are gratifying indications of a spirit which bids fair hereafter to render Upper Canada as thriving a country as any State of the American Union. The House of Assembly, with this object in view, took a large portion of the shares of the Welland Canal, which had been previously commenced by a few enterprising individuals. It then commenced the great ship canal, called the Cornwall Canal, with a view of enabling ships of considerable draught to avoid the Long Sault Rapids; and this work was, at an immense outlay, brought very far towards a completion. It is said that there was great mismanagement, and perhaps no little jobbing, in the application of the funds, and the execution of the work. But the greatest error committed was the undertaking the works in Upper, without ensuring their continuation in Lower Canada. For the whole of the works in the Upper Province, when completed, would be comparatively, if not utterly, useless, without the execution of similar works on that part of the Saint Lawrence which lies between the Province line and Montreal. But this co-operation the Lower Canadian Assembly refused or neglected to give; and the works of the Cornwall Canal are now almost suspended, from the apparent inutility of completing them.

The necessary expense of these great undertakings was very large; and the prodigality superadded thereto, has increased it to such an extent, that this Province is burthened with a debt of more than a million of pounds; the whole revenue, which is about 60,000*l.*, being hardly adequate to pay the interest. The Province has already been fortunately obliged to throw the whole support of the few and imperfect local works which are carried on in different parts of the Province on local assess-

ments; but it is obvious that it will soon be obliged to have recourse to direct taxation to meet its ordinary civil expenditure. For the custom duties cannot be increased without the consent of Lower Canada; and that consent it is useless to expect from any House of Assembly chosen under the suspended constitution. The canals, of which the tolls would, if the whole series of necessary works were completed, in all probability render the past outlay a source of profit, instead of loss, remain in a state of almost hopeless suspension: the Cornwall Canal being unfinished, and the works already completed daily falling into decay, and the Welland Canal, which has been a source of great commercial benefit, being now in danger of becoming useless, from want of money to make the necessary repairs. After all its great hopes, and all the great sacrifices which it has made to realize them, Upper Canada now finds itself loaded with an enormous debt, which it is denied the means of raising its indirect taxation to meet, and mocked by the aspect of those unfinished works, which some small combined efforts might render a source of vast wealth and prosperity, but which now are a source of useless expense and bitter disappointment.

It may well be believed that such a state of things is not borne without repining by some of the most enterprising and loyal people of the Province. It is well known that the desire of getting over these difficulties has led many persons in this Province to urge the singular claim to have a convenient portion of Lower Canada taken from that Province, and annexed to Upper Canada; and that it induces many to desire an union of the Provinces as the only efficient means of settling all these disputes on a just and permanent footing. But it cannot be matter of surprise, that in despair of any sufficient remedies being provided by the Imperial Government, many of the most enterprising colonists of Upper Canada look to that bordering country, in which no great industrial enterprise ever feels neglect, or experiences a check, and that men the most attached to the existing form of government would find some compensation in a change, whereby experience might bid them hope that every existing obstacle would be speedily removed, and each man's fortune share in the progressive prosperity of a flourishing State.

A dissatisfaction with the existing order of things, produced by causes such as I have described, necessarily extends to many who desire no change in the political institutions of the Province. Those who most admire the form of the existing system, wish to see it administered in a very different mode. Men of all parties feel that the actual circumstances of the Colony are such as to demand the adoption of widely different measures from any that have yet been pursued in reference to them. They ask for greater firmness of purpose in their rulers, and a more defined and consistent policy on the part of the Government; something, in short, that will make all parties feel that an order of things has been established to which it is necessary that they should conform themselves, and which is not to be subject to any unlooked for and sudden interruption consequent upon some unforeseen move in the game of politics in England. Hitherto the course of policy adopted by the English Government towards this Colony, has had reference to the state of parties in England, instead of the wants and circumstances of the Province; neither party could calculate upon a successful result to their struggles for any particular object, because though they might be able to estimate accurately enough their strength in the Colony, they could not tell how soon some hidden spring might be put in motion in the Colonial Office in England, which would defeat their best laid plans, and render utterly unavailing whole years of patient effort.

THE EASTERN PROVINCES AND NEWFOUNDLAND.

Though I have stated my opinion that my inquiries would have been very incomplete, had they been confined to the two Canadas, the information which I am enabled to communicate with respect to the other North American Colonies is necessarily very limited. As, however, in these Provinces, with the exception of Newfoundland, there are no such discontents as threaten the disturbance of the public tranquillity, I did not think it necessary to institute any minute inquiries into the details of the various departments of Government. It is only

necessary that I should state my impression of the general working of the Government in these Colonies, in order that if institutions similar to those of the disturbed Provinces should here appear to be tending to similar results, a common remedy may be devised for the impending as well as for existing disorders. On this head I have obtained much useful information from the communications which I had with the Lieutenant-Governors of these Colonies, as well as with individuals connected with them, but, above all, from the frequent and lengthened discussions which passed between me and the gentlemen who composed the deputations sent to me last autumn from each of the three Eastern Provinces, for the purpose of discussing the principles as well as details of a plan of general government for the whole of the British North American Colonies. It was most unfortunate that the events of temporary, but pressing importance which compelled my return to England, interrupted those discussions; but the delegates, with whom I had the good fortune to carry them on, were gentlemen of so much ability, so high in station, and so patriotic in their views, that their information could not fail to give me a very fair view of the working of the colonial constitution under somewhat different circumstances in each. I insert in the Appendix a communication which I received from one of those gentlemen, Mr. Young, a leading and very active Member of the House of Assembly of Nova Scotia, respecting that Province.

It is not necessary, however, that I should enter into any lengthened account of the nature or working of the form of government established in these Provinces, because in my account of Lower Canada I have described the general characteristics of the system common to all, and adduced the example of these Provinces in illustration of the defects of their common system. In all these Provinces we find representative government coupled with an irresponsible executive; we find the same constant collision between the branches of the Government; the same abuse of the powers of the representative bodies, owing to the anomaly of their position, aided by the want of good municipal institutions, and the same constant interference of the imperial administration in matters

which should be left wholly to the Provincial Governments. And if in these Provinces there is less formidable discontent and less obstruction to the regular course of Government, it is because in them there has been recently a considerable departure from the ordinary course of the colonial system, and a nearer approach to sound constitutional practice.

This is remarkably the case in New Brunswick, a province which was till a short time ago one of the most constantly harassed by collisions between the executive and legislative powers; the collision has now been in part terminated by the concession of all the revenues of the Province to the Assembly. The policy of this concession, with reference to the extent and mode in which it was made, will be discussed in the separate Report on the disposal and management of public lands; but the policy of the Government in this matter has, at any rate, put an end to disputes about the revenue, which were on the point of producing a constant Parliamentary conflict between the Crown and the Assembly in many respects like that which has subsisted in Lower Canada; but a more important advance has been made towards the practice of the British constitution in a recent change which has been made in the Executive and Legislative Councils of the Colony, whereby, as I found from the representatives of the present official body in the delegation from New Brunswick, the administrative power of the Province had been taken out of the hands of the old official party, and placed in those of members of the former liberal opposition. The constitutional practice had been, in fact, fully carried into effect in this Province; the Government had been taken out of the hands of those who could not obtain the assent of the majority of the Assembly, and placed in the hands of those who possessed its confidence; the result is, that the Government of New Brunswick, till lately one of the most difficult in the North American Colonies, is now the most harmonious and easy.

In Nova Scotia some, but not a complete approximation has been made to the same judicious course. The Government is in a minority in the House of Assembly, and the Assembly and the Legislative Council do not perfectly harmonize. But the questions which divide parties at present

happen really to be of no very great magnitude; and all are united and zealous in the great point of maintaining the connection with Great Britain. It will be seen from Mr. Young's paper, that the questions at issue, though doubtless of very considerable importance, involve no serious discussion between the Government and the people. The majority of the opposition is stated by the official party to be very uncertain, and is admitted by themselves to be very narrow. Both parties look with confidence to the coming general election; and all feel the greatest reliance on the good sense and good intentions of the present Lieutenant Governor, Sir Colin Campbell.

I must, however, direct particular attention to the following temperate remarks of Mr. Young on the constitution of the Executive and Legislative Councils:

"The majority of the House of Assembly is dissatisfied with the composition of the Executive and Legislative Councils, and the preponderance in both of interests which they conceive to be unfavourable to reform; this is the true ground, as I take it, of the discontent that is felt. The respectability and private virtues of the gentlemen who sit at the two Council Boards are admitted by all; it is of their political and personal predilections that the people complain; they desire reforming and liberal principles to be more fully represented and advocated there, as they are in the Assembly."

"The majority of the House, while they appreciate and have acknowledged the anxiety of his Excellency the Lieutenant Governor to gratify their just expectations, have also expressed their dissatisfaction, that the Church of England should have been suffered to retain a majority in both councils, notwithstanding the remonstrances of the House, and the precise and explicit directions of the Colonial Secretary. Religious dissensions are happily unknown among us, and the true way to prevent their growth and increase, is to avoid conferring an inordinate power on any one sect, however worthy it may be of respect or favour."

The political history of Prince Edward's Island is contained in the system pursued with regard to its settlement, and the

appropriation of its lands, which is fully detailed in the subsequent view of that department of government in the North American Colonies; and its past and present disorders are but the sad result of that fatal error which stifled its prosperity in the very cradle of its existence, by giving up the whole Island to a handful of distant proprietors. Against this system, this small and powerless community has in vain been struggling for some years: a few active and influential proprietors in London have been able to drown the remonstrances, and defeat the efforts of a distant and petty Province; for the ordinary evils of distance are, in the instance of Prince Edward's Island, aggravated by the scantiness of its population, and the confined extent of its territory. This island, most advantageously situated for the supply of the surrounding Colonies, and of all the fisheries, possesses a soil peculiarly adapted to the production of grain; and, from its insular position, is blessed with a climate far more genial than a great part of the continent which lies to the southward. Had its natural advantages been turned to proper account, it might at this time have been the granary of the British Colonies, and, instead of barely supporting a poor and unenterprising population of 40,000, its mere agricultural resources would, according to Major Head, have maintained in abundance a population of at least ten times that number. Of nearly 1,400,000 acres contained in the island, only 10,000 are said to be unfit for the plough. Only 100,000 are now under cultivation. No one can mistake the cause of this lamentable waste of the means of national wealth. It is the possession of almost the whole soil of the island by absentee proprietors, who would neither promote nor permit its cultivation, combined with the defective government which first caused and has since perpetuated the evil. The simple legislative remedy for all this mischief having been suggested by three successive Secretaries of State, has been embodied in an Act of the local legislature, which was reserved for the Royal Assent; and the influence of the proprietors in London was such, that that assent was for a long time withheld. The question was referred to me during my stay in Canada; and I believe I may have the satisfaction of attributing to the

recommendation which I gave, in accordance with the earnest representations of the Lieutenant Governor, Sir Charles Fitzroy, the adoption at last of a measure intended to remove the abuse that has so long retarded the prosperity of this Colony.

The present condition of these Colonies presents none of those alarming features which mark the state of the two Canadas. The loyalty and attachment to the mother country which animate their inhabitants, is warm and general. But their varied and ample resources are turned to little account. Their scanty population exhibits, in most portions of them, an aspect of poverty, backwardness, and stagnation; and wherever a better state of things is visible, the improvement is generally to be ascribed to the influx of American settlers or capitalists. Major Head describes his journey through a great part of Nova Scotia as exhibiting the melancholy spectacle of "half the tenements abandoned, and lands everywhere falling into decay;" "and the lands," he tells us, "that were purchased 30 and 40 years ago, at 5*s*. an acre, are now offered for sale at 3*s*." "The people of Prince Edward's Island are," he says, "permitting Americans to take out of their hands all their valuable fisheries, from sheer want of capital to employ their own population in them." "The country on the noble river, St. John's," he states, "possesses all that is requisite, except 'that animation of business which constitutes the value of a new settlement.'" But the most striking indication of the backward state of these Provinces, is afforded by the amount of the population. These Provinces, among the longest settled on the North American Continent, contain nearly 30,000,000 of acres, and a population, estimated at the highest at no more than 365,000 souls, giving only one inhabitant for every 80 acres. In New Brunswick, out of 16,500,000 acres, it is estimated that at least 15,000,000 are fit for cultivation; and the population being estimated at no more than 140,000, there is not one inhabitant for 100 acres of cultivable land.

It is a singular and melancholy feature in the condition of these Provinces, that the resources rendered of so little avail to the population of Great Britain, are turned to better

account by the enterprising inhabitants of the United States. While the emigration from the Province is large and constant, the adventurous farmers of New England cross the frontier, and occupy the best farming lands. Their fishermen enter our bays and rivers, and in some cases monopolize the occupations of our own unemployed countrymen; and a great portion of the trade of the St. John's is in their hands. Not only do the citizens of a foreign nation do this, but they do it with British capital. Major Head states, "that an American merchant acknowledged to him that the capital with which his countrymen carried on their enterprises in the neighbourhood of St. John's, was chiefly supplied by Great Britain; and," he adds, as a fact within his own knowledge, "that wealthy capitalists at Halifax, desirous of an investment for their money, preferred lending it in the United States to applying it to speculation in New Brunswick, or to lending it to their own countrymen in that Province."

I regret to say, that Major Head also gives the same account respecting the difference between the aspect of things in these Provinces and the bordering State of Maine. On the other side of the line, good roads, good schools, and thriving farms afford a mortifying contrast to the condition in which a British subject finds the neighbouring possessions of the British Crown.

With respect to the Colony of Newfoundland, I have been able to obtain no information whatever, except from sources open to the public at large. The Assembly of that Island signified their intention of making an appeal to me respecting some differences with the Governor, which had their immediate origin in a dispute with a Judge. Owing, probably, to the uncertain and tardy means of communication between Quebec and that Island, I received no further communication on this or any other subject until after my arrival in England, when I received an Address expressive of regret at my departure.

I know nothing, therefore, of the state of things in Newfoundland, except that there is, and long has been, the ordinary colonial collision between the representative body on one side and the executive on the other; that the re-

presentatives have no influence on the composition or the proceedings of the executive government; and that the dispute is now carried on as in Canada, by impeachments of various public officers on one hand, and prorogations on the other. I am inclined to think that the causes of these disorders is to be found in the same constitutional defects as those which I have signalized in the rest of the North American Colonies. If it be true that there exists in this island a state of society which renders it unadvisable that the whole of the local government should be entirely left to the inhabitants, I believe that it would be much better to incorporate this Colony with a larger community, than to attempt to continue the present experiment of governing it by a constant collision of constitutional powers.

DISPOSAL OF PUBLIC LANDS. EMIGRATION.

I have mentioned the peculiar importance which, in newly-settled societies, is attached to works for creating and improving the means of communication. But in such communities, and especially when only a small portion of the land has been occupied by settlers, there is a still more momentous subject of public concern. I allude to an operation of Government which has a paramount influence over the happiness of individuals, and the progress of society towards wealth and greatness. I am speaking of the disposal by the Government of the lands of the new country. In old countries no such matter ever occupies public attention; in new colonies, planted on a fertile and extensive territory, this is the object of the deepest moment to all, and the first business of the Government. Upon the manner in which this business is conducted, it may almost be said that every thing else depends. If lands are not bestowed on the inhabitants and new comers with a generous hand, the society endure the evils of an old and over-peopled state, with the superadded

inconveniences that belong to a wild country. They are pinched for room even in the wilderness, are prevented from choosing the most fertile soils and favourable situations, and are debarred from cultivating that large extent of soil in proportion to the hands at work, which can alone compensate, in quantity of produce, for the rude nature of husbandry in the wilderness. If, on the other hand, the land is bestowed with careless profusion, great evils of another kind are produced. Large tracts become the property of individuals, who leave their lands unsettled and untouched. Deserts are thus interposed between the industrious settlers; the natural difficulties of communication are greatly enhanced; the inhabitants are not merely scattered over a wide space of country, but are separated from each other by impassable wastes; the cultivator is cut off or far removed from a market in which to dispose of his surplus produce, and procure other commodities; and the greatest obstacles exist to co-operation in labour, to exchange, to the division of employments, to combination for municipal or other public purposes, to the growth of towns, to public worship, to regular education, to the spread of news, to the acquisition of common knowledge, and even to the civilizing influences of mere intercourse for amusement. Monotonous and stagnant indeed must ever be the state of a people who are permanently condemned to such separation from each other. If, moreover, the land of a new country is so carelessly surveyed that the boundaries of property are incorrectly or inadequately defined, the Government lays up a store of mischievous litigation for the people. Whatever delay takes place in perfecting the titles of individuals to lands alienated by the Government, occasions equal uncertainty and insecurity of property. If the acquisition of land, in whatever quantities, is made difficult or troublesome, or is subjected to any needless uncertainty or delay, applicants are irritated, settlement is hindered, and immigration to the colony is discouraged, as emigration from it is promoted. If very different methods of proceeding have effect in the same colony, or in different parts of the same group of colonies, the operation of some can scarcely fail to interfere with or counteract the operation of others; so that the object of

the Government must somewhere, or at some time be defeated. And frequent changes of system are sure to be very injurious, not only by probably displeasing those who either obtain land just before, or desire to obtain some just after each change, but also by giving a character of irregularity, uncertainty, and even mystery, to the most important proceedings of Government. In this way settlement and emigration are discouraged; inasmuch as the people, both of the colony and of the mother country, are deprived of all confidence in the permanency of any system, and of any familiar acquaintance with any of the temporary methods. It would be easy to cite many other examples of the influence of Government in this matter. I will mention but one more here. If the disposal of public lands is administered partially—with favour to particular persons or classes—a sure result is, the anger of all who do not benefit by such favouritism (the far greater number, of course), and consequently, the general unpopularity of the Government.

Under suppositions the reverse of these, the best, instead of the worst, effects would be produced; a constant and regular supply of new land in due proportion to the wants of a population increasing by births and immigration; all the advantages to which facilities of transport and communication are essential; certainty of limits and security of title to property in land; the greatest facilities in acquiring the due quantity; the greatest encouragements to immigration and settlement; the most rapid progress of the people in material comfort and social improvement, and a general sense of obligation to the Government. What a contrast do the two pictures present! Neither of them is over coloured; and a mere glance at both suffices to show that in the North American Colonies of England, as in the United States, the function of authority most full of good or evil consequences has been the disposal of public land.

Impressed, before my departure from England, with a sense of the great importance of this subject, and indulging a hope, founded on the very remarkable success of a new method of disposing of public lands in Your Majesty's Australian Colonies, that I might be able to recommend beneficial reforms in the North American Provinces, I took precautions

for instituting a thoroughly efficient inquiry into the whole subject generally, and in detail. And I was the more disposed to do this, because while an inquiry by a Select Committee of the House of Commons in 1836 furnished abundant information on the subject, as respects most parts of Your Majesty's Colonial Empire, the North American Provinces had been specifically excluded from that inquiry; and I could not obtain in England any authentic, or at least sufficient, information as to the disposal of public lands in any of them. Within a very short time after my arrival in Canada, the expediency of a searching inquiry into the subject became more than ever apparent to me. A common belief in the great extent of my powers revived innumerable complaints of abuse, and applications for justice or favour, which had slumbered during previous years. During my residence in the Canadas, scarcely a day passed without my receiving some petition or representation relating to the Crown Lands' Department; and matters belonging to this branch of Government necessarily occupied a far larger proportion than any other of my correspondence with the Secretary of State. The information which I now possess was chiefly obtained by means of a commission of inquiry, which, having regard to the probable advantages of an uniform system for the whole of British North America, and to the deep and universal interest taken in this subject by the colonists, I issued in Your Majesty's name, and made applicable to all the Provinces. Minutes of the Evidence given before the Commissioners are appended to the present Report, together with a separate Report, containing the outline of a plan for the future administration of this all-influential department of Government. If that plan, or any other founded on similar principles, should be adopted by Your Majesty and the Imperial Legislature, I do firmly believe that an impulse will be given to the prosperity of Your Majesty's North American possessions, surpassing what their most sanguine well-wisher, if unacquainted with the facts, would be capable of imagining; and more calculated than any other reform whatever to attach the people of British North America to Your Majesty's Throne, and to cement and perpetuate an intimate connection between the colonies and the

mother country. I shall have to return to this point hereafter. I have mentioned it here, for the purpose of inviting Your Majesty's attention, and awakening that of Your Ministers and of Parliament to a theme which, however little it has hitherto interested the Imperial Government, is the object of constant and earnest discussion in the colonies.

In the United States, ever since the year 1796, the disposal of public land not already appropriated to particular states, has been strictly regulated by a law of Congress; not by different laws for the various parts of the country, but by one law for the whole of the public lands, and a law which we may judge to have been conducive to the prosperity of the people, both from its obvious good effects, and from its almost unquestioned continuance for so many years. In the British North American Colonies, with one partial exception, there never has been, until quite recently, any law upon the subject. The whole of the public lands have been deemed the property of the Crown, and the whole of the administration for disposing of them to individuals, with a view to settlement, has been conducted by officers of the Crown, under instructions from the Treasury or the Colonial Department in England. The Provincial Assemblies, except quite recently in New Brunswick and Upper Canada, have never had any voice in this matter; nor is the popular control in those two cases much more than nominal. The Imperial Parliament has never interfered but once, when, leaving all other things untouched, it enacted the unhappy system of "Clergy Reserves." With these very slight exceptions, the Lords of the Treasury and Colonial Secretary of State for the time being have been the only legislators; and the provincial agents of the Colonial Secretary, responsible to him alone, have been the sole executors.

The system of the United States appears to combine all the chief requisites of the greatest efficiency. It is uniform throughout the vast federation; it is unchangeable save by Congress, and has never been materially altered; it renders the acquisition of new land easy, and yet, by means of a price, restricts appropriation to the actual wants of the settler; it is so simple as to be readily understood; it provides for accurate

surveys and against needless delays; it gives an instant and secure title; and it admits of no favouritism, but distributes the public property amongst all classes and persons upon precisely equal terms. That system has promoted an amount of immigration and settlement, of which the history of the world affords no other example; and it has produced to the United States a revenue which has averaged about half a million sterling per annum, and has amounted in one twelvemonth to above four millions sterling, or more than the whole expenditure of the Federal Government.

In the North American Colonies there never has been any system. Many different methods have been practised, and this not only in the different colonies, but in every colony at different times, and within the same colony at the same time. The greatest diversity and most frequent alteration would almost seem to have been the objects in view. In only one respect has there been uniformity. Everywhere the greatest profusion has taken place, so that in all the colonies, and nearly in every part of each colony, more, and very much more land has been alienated by the Government, than the grantees had at the time, or now have the means of reclaiming from a state of wilderness; and yet in all the Colonies until lately, and in some of them still, it is either very difficult or next to impossible for a person of no influence to obtain any of the public land. More or less in all the Colonies, and in some of them to an extent which would not be credited, if the fact were not established by unquestionable testimony, the surveys have been inaccurate, and the boundaries, or even the situation of estates, are proportionably uncertain. Everywhere needless delays have harassed and exasperated applicants; and everywhere, more or less, I am sorry, but compelled to add, gross favouritism has occurred in the disposal of public lands. I have mentioned but a part of the evils, grievances, and abuses, of which Your Majesty's subjects in the Colonies justly complain, as having arisen from maladministration in this department. Those evils remain wholly unremedied, most of those grievances are unredressed, and not a few of those abuses are unreformed at this hour. Their present existence has been forced on my conviction by indisputable evidence. If they had passed away, I should scarcely

have alluded to them. If I had any hope of seeing them removed, otherwise than by means of giving them authentic publicity, I should have hesitated to speak of them as I have done. As it is, I should ill perform the duty which Your Majesty was pleased to confide to me, if I failed to describe them in the plainest terms.

The results of long misgovernment in this department are such as might have been anticipated by any person understanding the subject. The administration of the public lands, instead of always yielding a revenue, cost for a long while more than it produced. But this is, I venture to think, a trifling consideration when compared with others. There is one in particular which has occurred to every observant traveller in these regions, which is a constant theme of boast in the States bordering upon our Colonies, and a subject of loud complaint within the Colonies. I allude to the striking contrast which is presented between the American and the British sides of the frontier line in respect to every sign of productive industry, increasing wealth, and progressive civilization.

By describing one side, and reversing the picture, the other would be also described. On the American side all is activity and bustle. The forest has been widely cleared ; every year numerous settlements are formed, and thousands of farms are created out of the waste ; the country is intersected by common roads ; canals and railroads are finished, or in the course of formation ; the ways of communication and transport are crowded with people, and enlivened by numerous carriages and large steam-boats. The observer is surprised at the number of harbours on the lakes, and the number of vessels they contain ; while bridges, artificial landing-places, and commodious wharfs are formed in all directions as soon as required. Good houses, warehouses, mills, inns, villages, towns, and even great cities, are almost seen to spring up out of the desert. Every village has its schoolhouse and place of public worship. Every town has many of both, with its township buildings, its book stores, and probably one or two banks and newspapers ; and the cities, with their fine churches, their great hotels, their exchanges, court-houses, and municipal halls, of stone or marble, so new and fresh as to mark the recent existence of the forest where they now stand, would be

admired in any part of the Old World. On the British side of the line, with the exception of a few favoured spots, where some approach to American prosperity is apparent, all seems waste and desolate. There is but one railroad in all British America, and that, running between the St. Lawrence and Lake Champlain, is only 15 miles long. The ancient city of Montreal, which is naturally the commercial capital of the Canadas, will not bear the least comparison, in any respect, with Buffalo, which is a creation of yesterday. But it is not in the difference between the larger towns on the two sides that we shall find the best evidence of our own inferiority. That painful but undeniable truth is most manifest in the country districts through which the line of national separation passes for 1,000 miles. There, on the side of both the Canadas, and also of New Brunswick and Nova Scotia, a widely scattered population, poor, and apparently unenterprising, though hardy and industrious, separated from each other by tracts of intervening forest, without towns and markets, almost without roads, living in mean houses, drawing little more than a rude subsistence from ill-cultivated land, and seemingly incapable of improving their condition, present the most instructive contrast to their enterprising and thriving neighbours on the American side. I was assured that in the Eastern Townships of Lower Canada, bordering upon the line, it is a common practice for settlers, when they wish to meet, to enter the State of Vermont, and make use of the roads there for the purpose of reaching their destination in the British Province. Major Head, the Assistant Commissioner of Crown Lands' Inquiry, whom I sent to New Brunswick, states, that when travelling near the frontier line of that Province and the State of Maine, now on one side and then on the other, he could always tell on which side he was by the obvious superiority of the American settlements in every respect. Where the two countries are separated by the St. Lawrence and the Lakes, this difference is less perceptible ; but not less in fact, if I may believe the concurrent statements of numerous eye-witnesses, who had no motive for deceiving me. For further corroboration, I might refer indeed to numerous and uncontradicted publications ; and there is one proof of this sort so remarkable, that I am induced to notice it specially. A highly popular

work, which is known to be from the pen of one of Your Majesty's chief functionaries in Nova Scotia, abounds in assertions and illustrations of the backward and stagnant condition of that Province, and the great superiority of neighbouring American settlements. Although the author, with a natural disinclination to question the excellence of government, attributes this mortifying circumstance entirely to the folly of the people, in neglecting their farms to occupy themselves with complaining of grievances and abuses, he leaves no doubt of the fact.

This view is confirmed by another fact equally indisputable. Throughout the frontier, from Amherstburgh to the ocean, the market value of land is much greater on the American than on the British side. In not a few parts of the frontier this difference amounts to as much as a thousand per cent., and in some cases even more. The average difference, as between Upper Canada and the States of New York and Michigan, is notoriously several hundred per cent. Mr. Hastings Kerr, of Quebec, whose knowledge of the value of land in Lower Canada is generally supposed to be more extensive and accurate than that of any other person, states that the price of wild land in Vermont and New Hampshire, close to the line, is five dollars per acre, and in the adjoining British townships only one dollar. On this side the line a very large extent of land is wholly unsaleable, even at such low prices; while on the other side property is continually changing hands. The price of two or three shillings per acre would purchase immense tracts in Lower Canada and New Brunswick. In the adjoining States it would be difficult to obtain a single lot for less than as many dollars. In and near Stanstead, a border township of Lower Canada, and one of the most improved, forty-eight thousand acres of fine land, of which Governor Sir R. S. Milne obtained a grant to himself in 1810, was recently sold at the price of two shillings per acre. Mr. Stayner, the Deputy Postmaster-General, one of the largest proprietors of wild land in Lower Canada, says:—"Twenty years ago, or thereabout, I purchased wild land at what was then considered a low price, in the natural hope that it would be gradually increasing in value, and that, whenever I might choose to sell, it would be at such a profit as would afford me

a fair return for the use of the money employed. So far, however, from realizing this expectation, I now find, after the lapse of so many years, when the accumulated interest upon the money invested has increased the cost of the land 150 per cent.—I say I find that I could not, if compelled to sell this land, obtain more for it than it originally cost me." I learned from others besides Mr. Kerr, but quote his words, that "the system pursued in granting Crown Lands in Lower Canada has been such as to render it impossible to obtain money on mortgage of land, because there is no certainty as to the value: when a sale is forced, there may be a perfect glut in the market and no purchasers." Similar statements might be cited in abundance. It might be supposed by persons unacquainted with the frontier country, that the soil on the American side is of very superior natural fertility. I am positively assured that this is by no means the case; but that, on the whole, superior natural fertility belongs to the British territory. In Upper Canada, the whole of the great peninsula between Lakes Erie and Huron, comprising nearly half the available land of the Province, consists of gently-undulating alluvial soil, and, with a smaller proportion of inferior land than probably any other tract of similar extent in that part of North America, is generally considered the best grain country on that continent. The soil of the border townships of Lower Canada is allowed on all hands to be superior to that of the border townships of New York, Vermont, and New Hampshire; while the lands of New Brunswick, equal in natural fertility to those of Maine, enjoy superior natural means of communication. I do not believe that the universal difference in the value of land can anywhere be fairly attributed to natural causes.

Still less can we attribute to such causes another circumstance, which in some measure accounts for the different values of property, and which has a close relation to the subject of the public lands. I mean the great amount of re-emigration from the British Colonies to the border States. This is a notorious fact. Nobody denies it; almost every colonist speaks of it with regret. What the proportion may be of those emigrants from the United Kingdom who, soon after

their arrival, remove to the United States, it would be very difficult to ascertain precisely. Mr. Bell Forsyth, of Quebec, who has paid much attention to the subject, and with the best opportunities of observing correctly in both the Canadas, estimates that proportion at sixty per cent. of the whole. Mr. Hawke, the chief agent for emigrants in Upper Canada, calculates that out of two-thirds of the immigrants by the St. Lawrence who reach that Province, one-fourth re-emigrate chiefly to settle in the States. It would appear, however, that the amount of emigration from Upper Canada, whether of new comers or others, must be nearer Mr. Forsyth's estimate. The population was reckoned at 200,000 in January 1830. The increase by births since then should have been at least three per cent. per annum, or 54,000. Mr. Hawke states the number of immigrants from Lower Canada, since 1829, to have been 165,000; allowing that these also would have increased at the rate of three per cent. per annum, the whole increase by immigration and births should have been nearly 200,000. But Mr. Hawke's estimate of immigrants takes no account of the very considerable number who enter the Province by way of New York and the Erie Canal. Reckoning these at only 50,000, which is probably under the truth, and making no allowance for their increase by births, the entire population of Upper Canada should now have been 500,000, whereas it is, according to the most reliable estimates, not over 400,000. It would therefore appear, making all allowance for errors in this calculation, that the number of people who have emigrated from Upper Canada to the United States, since 1829, must be equal to more than half of the number who have entered the Province during the eight years. Mr. Bailie, the present Commissioner of Crown Lands in New Brunswick, says, " a great many emigrants arrive in the Province, but they generally proceed to the United States, as there is not sufficient encouragement for them in this Province." Mr. Morris, the present Commissioner of Crown Lands, and Surveyor General of Nova Scotia, speaks in almost similar terms of the emigrants who reach that Province by way of Halifax.

I am far from asserting that the very inferior value of land

in the British Colonies, and the re-emigration of immigrants, are altogether occasioned by mismanagement in the disposal of public lands. Other defects and errors of Government must have had a share in producing these lamentable results; but I only speak the opinion of all the more intelligent, and, let me add, some of the most loyal of Your Majesty's subjects in North America, when I say that this has been the principal cause of these great evils. This opinion rests upon their personal acquaintance with numerous facts. Some of these facts I will now state. They have been selected from a much greater number, as being peculiarly calculated to illustrate the faults of the system, its influence on the condition of the people, and the necessity of a thorough reform. I may add, that many of them form the subject of Despatches which I have addressed to Your Majesty's Secretary of State.

I have observed before, that nearly all of the different methods pursued by the Government have had one mischievous tendency in particular; they have tended to place a vast extent of land out of the control of Government, and yet to retain it in a state of wilderness. This evil has been produced in all the Colonies alike, to what extent, and with what injurious consequences, will be made apparent by the following illustrative statements.

By official returns which accompany this Report, it appears that, out of about 17,000,000 of acres comprised within the surveyed districts of Upper Canada, less than 1,600,000 are yet unappropriated, and this amount includes 450,000 acres the reserve for roads, leaving less than 1,200,000 acres open to grant; and of this remnant, 500,000 acres are required to satisfy claims for grants founded on pledges by the Government. In the opinion of Mr. Radenhurst, the really acting Surveyor General, the remaining 700,000 consist for the most part of land inferior in position or quality. It may almost be said, therefore, that the whole of the public lands in Upper Canada have been alienated by the Government. In Lower Canada, out of 6,169,963 acres in the surveyed townships, nearly 4,000,000 acres have been granted or sold; and there are unsatisfied but indisputable claims for grants to the amount of about 500,000. In Nova Scotia, nearly 6,000,000

of acres have been granted, and, in the opinion of the Surveyor General, only about one-eighth of the land which remains to the Crown, or 300,000 acres, is available for the purposes of settlement. The whole of Prince Edward's Island, about 1,400,000 acres, was alienated in one day. In New Brunswick, 4,400,000 acres have been granted or sold, leaving to the Crown about 11,000,000, of which 5,500,000 acres are considered fit for immediate settlement.

Of the lands granted in Upper and Lower Canada, upwards of 3,000,000 acres consist of "Clergy Reserves," being for the most part lots of 200 acres each, scattered at regular intervals over the whole face of the townships, and remaining, with few exceptions, entirely wild to this day. The evils produced by the system of reserving land for the clergy have become notorious, even in this country; and a common opinion I believe prevails here, not only that the system has been abandoned, but that measures of remedy have been adopted. This opinion is incorrect in both points. In respect of every new township in both Provinces, reserves are still made for the clergy, just as before; and the Act of the Imperial Parliament, which permits the sale of clergy reserves, applies to only one-fourth of the quantity. The Select Committee of the House of Commons on the Civil Government of Canada reported, in 1828, that "these reserved lands, as they are at present distributed over the country, retard more than any other circumstance the improvement of the Colony, lying as they do in detached portions of each township, and intervening between the occupations of actual settlers, who have no means of cutting roads through the woods and morasses, which thus separate them from their neighbours." This description is perfectly applicable to the present state of things. In no perceptible degree has the evil been remedied.

The system of clergy reserves was established by the act of 1791, commonly called the Constitutional Act, which directed that, in respect of all grants made by the Crown, a quantity eual to one-seventh of the land so granted should be reserved for the clergy. A quantity equal to one-seventh of

all grants would be one-eighth of each township, or of all the public land. Instead of this proportion, the practice has been, ever since the Act passed, and in the clearest violation of its provisions, to set apart for the clergy in Upper Canada a seventh of all the land, which is a quantity equal to a sixth of the land granted. There have been appropriated for this purpose 300,000 acres, which, legally, it is manifest, belong to the public. And of the amount for which clergy reserves have been sold in that Province, namely £317,000 (of which about £100,000 have been already received and invested in the English funds), the sum of about £45,000 should belong to the public.

In Lower Canada, the same violation of the law has taken place, with this difference—that upon every sale of Crown and clergy reserves, a fresh reserve for the clergy has been made, equal to a fifth of such reserves. The result has been the appropriation for the clergy of 673,567 acres, instead of 446,000, being an excess of 227,559 acres, or half as much again as they ought to have received. The Lower Canada fund already produced by sales amounts to £50,000, of which, therefore, a third, or about £16,000, belong to the public. If, without any reform of this abuse, the whole of the unsold clergy reserves in both Provinces should fetch the average price at which such lands have hitherto sold, the public would be wronged to the amount of about £280,000; and the reform of this abuse will produce a certain and almost immediate gain to the public of £60,000. In referring, for further explanation of this subject, to a paper in the Appendix which has been drawn up by Mr. Hanson, a member of the Commission of Inquiry which I appointed for all the Colonies, I am desirous of stating my own conviction, that the clergy have had no part in this great misappropriation of the public property, but that it has arisen entirely from heedless misconception, or some other error, of the civil government of both Provinces.

The great objection to reserves for the clergy is, that those for whom the land is set apart never have attempted, and never could successfully attempt, to cultivate or settle the property, and that, by that special appropriation, so much

land is withheld from settlers, and kept in a state of waste, to the serious injury of all settlers in its neighbourhood. But it would be a great mistake to suppose that this is the only practice by which such injury has been, and is still inflicted on actual settlers. In the two Canadas especially, the practice of rewarding, or attempting to reward public services by grants of public land, has produced, and is still producing, a degree of injury to actual settlers which it is difficult to conceive without having witnessed it. The very principle of such grants is bad, inasmuch as, under any circumstances, they must lead to an amount of appropriation beyond the wants of the community, and greatly beyond the proprietor's means of cultivation and settlement. In both the Canadas, not only has this principle been pursued with reckless profusion, but the local executive governments have managed, by violating or evading the instructions which they received from the Secretary of State, to add incalculably to the mischiefs that would have arisen at all events.

In Upper Canada, 3,200,000 acres have been granted to "U. E. Loyalists," being refugees from the United States who settled in the Province before 1787, and their children; 730,000 acres to militiamen; 450,000 acres to discharged soldiers and sailors; 255,000 acres to magistrates and barristers; 136,000 acres to executive councillors and their families; 50,000 acres to five legislative councillors and their families; 36,900 acres to clergymen as private property; 264,000 acres to persons contracting to make surveys; 92,526 acres to officers of the army and navy; 500,000 acres for the endowment of schools; 48,520 acres to Colonel Talbot; 12,000 acres to the heirs of General Brock, and 12,000 acres to Doctor Mountain, a former Bishop of Quebec; making altogether, with the clergy reserves, nearly half of all the surveyed land in the Province. In Lower Canada, exclusively of grants to refugee loyalists, as to the amount of which the Crown Lands' Department could furnish me with no information; 450,000 acres have been granted to militiamen; to executive councillors 72,000 acres; to Governor Milne about 48,000 acres; to Mr. Cushing and another upwards of 100,000 acres (as a reward for giving

information in a case of high treason); to officers and soldiers 200,000 acres; and to "leaders of townships" 1,457,209 acres; making altogether, with the clergy reserves, rather more than half of the surveyed lands originally at the disposal of the Crown.

In Upper Canada, a very small proportion (perhaps less than a tenth) of the land thus granted has been even occupied by settlers, much less reclaimed and cultivated. In Lower Canada, with the exception of a few townships bordering on the American frontier, which have been comparatively well settled, in despite of the proprietors, by American squatters, it may be said that nineteen-twentieths of these grants are still unsettled, and in a perfectly wild state.

No other result could have been expected in the case of those classes of grantees whose station would preclude them from settling in the wilderness, and whose means would enable them to avoid exertion for giving immediate value to their grants; and, unfortunately, the land which was intended for persons of a poorer order, who might be expected to improve it by their labour, has, for the most part, fallen into the hands of land-jobbers of the class just mentioned, who have never thought of settling in person, and who retain the land in its present wild state, speculating upon its acquiring a value at some distant day, when the demand for land shall have increased through the increase of population.

In Upper Canada, says Mr. Bolton, himself a great speculator and holder of wild land, "the plan of granting large tracts to gentlemen who have neither the muscular strength to go into the wilderness, nor, perhaps, the pecuniary means to improve their grants, has been the means of a large part of the country remaining in a state of wilderness. The system of granting land to the children of U. E. loyalists has not been productive of the benefits expected from it. A very small proportion of the land granted to them has been occupied or improved. A great proportion of such grants were to unmarried females, who very readily disposed of them for a small consideration, frequently from 2*l.* to 5*l.* for a grant of 200 acres. The grants made to young men were also frequently sold for a very small consideration; they generally

had parents with whom they lived, and were therefore not disposed to move to their grants of lands, but preferred remaining with their families. I do not think one-tenth of the lands granted to U. E. loyalists has been occupied by the persons to whom they were granted, and in a great proportion of cases not occupied at all." Mr. Radenhurst says, "the general price of these grants was from a gallon of rum up to perhaps 6*l.*, so that while millions of acres were granted in this way, the settlement of the Province was not advanced, nor the advantage of the grantee secured in the manner that we may suppose to have been contemplated by Government." He also mentions amongst extensive purchasers of these grants, Mr. Hamilton, a member of the Legislative Council, who bought about 100,000 acres; Chief Justices Emslie and Powell, and Solicitor General Grey, who purchased from 20,000 to 50,000 acres; and states that several members of the Executive and Legislative Councils, as well as of the House of Assembly, were "very large purchasers."

In Lower Canada, the grants to "Leaders and Associates" were made by an evasion of instructions which deserves a particular description.

By instructions to the Local Executive immediately after the passing of the Constitutional Act, it was directed that, "because great inconveniences had theretofore arisen in many of the Colonies in America from the granting excessive quantities of land to particular persons who have never cultivated or settled the same, and have thereby prevented others, more industrious, from improving such lands: in order, therefore, to prevent the like inconveniences in future, no farm-lot should be granted to any person being master or mistress of a family in any township to be laid out, which should contain more than 200 acres." The instructions then invest the Governor with a discretionary power to grant additional quantities in certain cases, not exceeding 1,000 acres. According to these instructions, 200 acres should have been the general amount, 1,200 the maximum, in special cases, to be granted to any individual. The greater part, however, of the land (1,457,209 acres) was granted, in fact, to individuals at the rate of from 10,000 to 50,000 to each person. The

evasion of the regulations was managed as follows:—A petition, signed by from 10 to 40 or 50 persons, was presented to the Executive Council, praying for a grant of 1,200 acres to each person, and promising to settle the land so applied for. Such petitions were, I am informed, always granted, the Council being perfectly aware that, under a previous agreement between the applicants (of which the form was prepared by the then Attorney General, and sold publicly by the law stationers of Quebec), five-sixths of the land was to be conveyed to one of them, termed the leader, by whose means the grant was obtained. In most cases the leader obtained the whole of the land which had been nominally applied for by 50 persons. A Report of a Committee of the House of Assembly, known to have been drawn up by the present Solicitor General, speaks of this practice in the following terms: "Your Committee, unwilling to believe that the above-mentioned evasions of His Majesty's gracious instructions had been practised with the knowledge, privity, or consent of His Majesty's servants, bound by their oaths, their honour, and their duty to obey them, instituted a long and patient investigation into the origin of these abuses. They have been painfully but irresistibly led to the conclusion, that they were fully within the knowledge of individuals in this Colony, who possessed and abused His Majesty's confidence. The instruments by which this evasion was to be carried into effect were devised by his Majesty's Attorney General for the time being, printed and publicly sold in the capital of this Province; and the principal intermediate agent was His Majesty's late Assistant Surveyor General."

In order to reward militiamen in Lower Canada, who had served on the frontier during war, the Duke of Richmond, acting, as it would appear, under instructions from the Home Goverment, but of which no copy is extant in the public offices at Quebec, promised grants of land to many thousand persons inhabiting all parts of the Province. The intentions of the Home Government appear to have been most praiseworthy. How effectually they have been defeated by the misconduct of the Local Executive will appear from a Report on the subject in the Appendix (A.), and the following copy of the

instructions given to Commissioners whom I appointed in order to expedite the settlement of militia claims. I would also refer to the evidence of Mr. Kerr, Mr. Morin, Mr. Davidson, and Mr. Langevin.

To the Commissioners of unsettled Militia Claims.

Castle of St. Lewis, Quebec, 12 Sept. 1838.

Gentlemen,

I am directed by his Excellency the Governor General, in furnishing you with some instructions for your guidance in disposing of unsettled militia claims, to state the view which he takes of this subject, and has represented to Her Majesty's Government.

His Excellency is of opinion that, if any reliance is to be placed on the concurrent testimony of all from whom he has derived information on the subject, the report of the Commissioners of Crown Lands and Emigration, on which his recent proclamation is founded, contains but a faint description of the injury inflicted on this Province, and of the cruel injustice done to the militiamen, by the manner in which the intentions of the Home Government with respect to these claimants have been defeated by the local executive.

It appears to his Excellency, that the intentions of the Prince Regent in awarding land to those officers and men of the militia who had loyally and gallantly served during the last American war, were, in part, to promote the settlement of wild lands, and the consequent prosperity of the Province; but chiefly, there can be no doubt, to bestow upon that body of loyal and gallant men some extraordinary recompense for the privations and dangers which they had cheerfully incurred in defence of the country. His Excellency is satisfied that neither result was obtained in any but so slight a degree as to be scarcely worth notice. But the Governor General perceives, on the other hand, that results occurred, as to the great majority of cases, precisely opposite to those which the Home Government had in view. The official delays and obstacles interposed between the militia claimants and the grants to which they were entitled—the impossibility, in many cases, of ever obtaining a grant, even after the most vexatious impedi-

ments and delays—the mode of allotting the land in such a manner, that the grant, when obtained, was often worth nothing at all, and seldom worth the trouble and expense of obtaining it—the necessity of employing and paying agents acquainted with the labyrinths of the Crown Lands and Surveyor General's departments—the expense, uncertainty, and harassing trouble attendant upon the pursuit of such a claim; all these circumstances, for which his Excellency is compelled to believe that the public offices were alone to blame, had the effect, he is convinced, in the majority of cases, of converting what the Prince Regent had intended as a boon into a positive injury to the militiamen. He is assured, as might have been expected, that the militiamen disposed of their claims, often for a mere trifle, to land speculators, who never intended to settle upon the grants, and who have for the most part kept the land in a state of wilderness; thereby defeating the only other intention with which the Home Government could have determined on making these grants. From a careful inspection of the evidence taken on this subject from official gentlemen, as well as others, his Excellency is led to concur entirely in that part of the Commissioners' Report, which states, that "there has been the maximum of injury to the Province, with the minimum of benefit to the militiamen."

This crying grievance his Excellency finds has been over and over again, and in various forms, represented to the Government, but without any attempt, as far as he can discover, to provide an adequate remedy for it. He is encouraged to hope that the measure on which he has determined, may, as respects the claims yet unsettled, be the means of carrying into effect, however tardily, the objects of the Prince Regent, by conferring a considerable boon on these meritorious but long disappointed claimants, and conducing to the settlement of the lands which may thus be alienated by the Crown.

The Governor General further directs me to make you acquainted with his confident expectation that you will proceed, with the utmost despatch not incompatible with accuracy, to determine all unsettled claims; that, in awarding orders to persons whose claims could not have been admitted under the

original proclamation, but will now be held valid, you will take care not to admit any claims except those of the six battalions and of others who actually served for the same period, and precisely in the same manner as the six battalions. His Excellency cannot doubt, moreover, that you will spare no pains in endeavouring to secure to the class of militiamen the advantage which was intended for them alone, and which they ought long since to have received. As one means of this most desirable end, his Excellency is of opinion that you should explain to all claimants that the orders for a nominal amount of money which you may award, will have the full value of money at future sales of Crown lands, and ought therefore to be exchangeable for money, if not for the whole sum named in them, still for one of nearly the same amount.

I am, &c.

Chas. Buller, Chief Secretary.

The purposes of the Home Government, judging by the general instructions which they gave to the local executive, would seem to have been dictated by a sincere, and also an enlightened, desire to promote the settlement and improvement of the country. As respects Upper Canada, instructions, dated July 1827, established as a general rule for the disposal of public lands in future, that free grants should be discontinued, and that a price should be required for land alienated by the Crown. The quantity of land disposed of by sale since those instructions were given amounts to 100,317 acres; the quantity disposed of during the same period by free grant, all in respect of antecedent claims, is about 2,000,000 acres, being above 19 times as much as has been disposed of according to the new rule.

The instructions were obviously prepared with care for the purpose of establishing a new system, and placing the whole of the disposal of Crown lands in the hands of a Commissioner, then for the first time appointed. The Commissioner never assumed the control of any other portion of these lands than such as were included in returns made to him by the Surveyor General, amounting to no more than about 300,000 acres. All the rest of the land open for disposal remained, as pre-

viously, under the control of the Surveyor General as an agent of the Government for locating free grants. The salary of the Commissioner was 500*l.* a year, besides fees; the whole service during ten years was the superintendence of the sale of 100,000 acres of wild land. The same person was also Surveyor General of Woods and Forests, with a salary of 500*l.* a year, and agent for the sale of Clergy Reserves, with 500*l.* a year.

In Lower Canada, under instructions from the Treasury, dated in November 1826, which were confirmed and further enforced by Lord Goderich in 1831, who manifestly intended to supersede the old system of free grants by an uniform system of sale, 450,469 acres have been sold, and 641,039 acres have, in respect of antecedent claims, been disposed of by free grant; and the object of the new rule of selling was defeated by the large amount of free grants. Even at this moment, in the two Provinces, where I was assured before I left England that the system of selling had been uniformly established by Lord Goderich's regulations of 1831, there are unsettled, but probably indisputable claims for free grants, to the amount of from 1,000,000 to 1,300,000 acres. The main alteration which Lord Goderich's regulations would have made in the system intended to have been established by the Treasury Instructions of 1826, was to render the price more restrictive of appropriation, by requiring payment in less time, and the payment of interest in the meanwhile. This direction appears to have been totally disregarded in both Provinces. As respects Lower Canada, the head of the Crown Lands' Department gives the following evidence on the subject.

"Q. How did it happen that this instruction was not acted upon?—A. In consequence of a representation from Mr. Felton, the Commissioner of Crown Lands, to Lord Aylmer, the Governor of the Province, stating that the terms imposed were too severe, and amounted, in fact, to exacting the whole purchase-money down. Lord Aylmer, upon this, authorized Mr. Felton to continue the former practice, and, it is understood, reported the circumstance to the Home Government. This was in 1832, and the system of longer credit without interest continued to be acted upon until the receipt of Lord

Glenelg's Despatch of 1837, which required payment in ready money at the time of sale."

I have already pointed out the importance of accurate surveys of the public land. Without these there can be no security of property in land, no certainty even as to the position or boundaries of estates marked out in maps or named in title deeds. In Nova Scotia, says the present Surveyor General, "there are very many instances of litigation in consequence of inaccurately defined boundaries." Mr. M'Kenzie, a draftsman of the Surveyor General's office at Halifax, who is also employed to conduct surveys in the field, says, he "has found it impossible to make correct surveys, in consequence of inaccuracy as to former lots of land, from which of necessity he measures, and also from surveys being inaccurately made by persons not qualified. In many cases, also, the boundaries of land granted have never been surveyed or laid out at all. The present state of surveys is inadequate and injurious to the settlement of the land." In New Brunswick, says the present Surveyor General, "no survey of the Province has ever been made, and the surveys of the old grants are extremely erroneous, and expose errors and collisions which could not have been supposed to exist. It frequently has occurred that different grants are made for the same lot of land. I think this system pernicious, and it will some day be very injurious. The usual practice cannot be relied on as giving a settler a grant of land that cannot be disturbed, without great care and a greater expense than a poor settler can afford." In Upper Canada, Mr. Radenhurst asserts that "the surveys throughout the Province generally are very inaccurate. This inaccuracy was produced in the first instance by the deficiency of competent persons, and the carelessness with which the surveys were conducted. Latterly the practice introduced by Sir Peregrine Maitland, in spite of the results being pointed out by the then Surveyor General, of letting out the surveys to any person who was willing to contract for them for a certain quantity of land, produced extreme carelessness and inaccuracy. The surveyors just hurried through the township, and of course made surveys, which, on the ground, are found to be very inaccurate. There are instances in which scarcely a single lot

is of the dimensions or in the position actually assigned to it in the diagram. The consequences of this have been confusion and uncertainty in the possessions of almost every man, and no small amount of litigation." As to Lower Canada, the evidence is still more complete and unsatisfactory. The Commissioner of Crown Lands says, in answer to questions, "I can instance two townships, Shefford and Orford (and how many more may prove inaccurate as questions of boundary arise, it is impossible to say), which are very inaccurate in their subdivision. On actual recent survey it has been found, that no one lot agrees with the diagram on record. The lines dividing the lots, instead of running perpendicularly accordingly to the diagram, actually run diagonally, the effect of which is necessarily to displace the whole of the lots, upwards of 300 in number, from their true position. The lines dividing the ranges are so irregular as to give to some lots two and a-half times the contents of others, though they are all laid down in the diagram as of equal extent; there are lakes also which occupy nearly the whole of some lots that are entirely omitted: I have heard complaints of a similar nature respecting the township of Grenville. I have no reason for believing that the surveys of other townships are more accurate than those of Shefford and Orford, other than that in some parts of the country the same causes of error may not have existed, whether physical causes, such as that of magnetic attraction, where there really was a survey, or, in cases where there was no actual survey, the negligence of the surveyor. The inaccuracy of which I have spoken is confined to that part of the Province which is divided into townships. There are 109 townships of about 100 square miles each, including all the land which has been disposed of by the British Government, except the seigniories which were erected by that Government shortly after the conquest. Similar difficulties to those which might arise in settling a question of title between the Crown and an alleged squatter, arising from the inaccuracy of the township surveys, would extend to all grants and sales by the Crown, and also to all questions of title between persons claiming to have a grant, or to have purchased from the Crown,

and alleged squatters on the land asserted to be theirs, and more or less to all cases in which different persons should claim to have received or purchased the same piece of land from the Crown. It is a general observation that this state of the Crown surveys must prove a source of interminable litigation hereafter; it is impossible to say how many cases may arise of double grants of the same land under different designations, arising from the defective state of the surveys. None of such cases have come before me in an official shape, but I apprehend that questions of that nature are waiting in great numbers until lands shall have become more valuable, when the Crown will be called in upon every occasion to defend its own grant, and, considering the state of the surveys, will be without the means of such defence, unless measures to prevent the evil should be adopted before its occurrence. In common with every person who has ever reflected on the subject, I consider this a subject of very high importance, and demanding the immediate attention of Government." Mr. Daly, the secretary of the Province, says:—"An accurate survey of the whole of the ungranted lands in the Province I believe to be extremely desirable and necessary to quiet doubts that have arisen in the minds of many new settlers as to the correctness of their boundaries." Mr. Patrick Daly, commissioned surveyor of the Province, gives the following evidence:—

You are just come to Quebec to make a representation as to the state of the township of Durham?—I am.

What is the point which you wish to ascertain?—Whether I can have authority to establish a new line between the 6th and 7th ranges of the township of Durham.

What would be the consequence of such a change?—In consequence of a part of the old-range line being found incorrect to the extent of 60 perches, whereby the 7th would lose about one-fifth of its dimensions, and the same amount would be improperly added to the 6th; the change I wish to make would set this right.

How did you discover that the line was incorrect?—In consequence of having been employed by Capt. Ployart, of Durham, to run the side lines of Lot No. 15, in the 6th range,

in order to determine the extent of his property, he being the proprietor of that lot, I discovered that the line was incorrect, as I have described already; and I cannot proceed to rectify the error without authority from the Governor, or some person appointed by the Governor, as we have not any laws in the Province to enable me to make a new range-line, as the old range-line is not to be found, with the exception of a small part, which is in the wrong place, as I have described.

Would a new line have the effect of taking away land, in actual possession, from any person, and giving it to another?—Yes, it would.

Do you suppose that the other range-lines in this township are correct or incorrect?—Some are correct, but they are generally incorrect; my attention, however, has not been particularly called to them.

Are not the proprietors of the other lots which are incorrect anxious to have the limits of their property settled?—Yes, very anxious; more particularly the inhabitants of the third range, about one quarter of whose property is taken by the inhabitants of the second range, through the means of an erroneous old range-line, as has been proved by various subsequent surveys duly sworn to. I am requested by all the inhabitants of the third range to take steps to obtain a new range-line.

Have they ever applied before for this rectification of the survey?—Yes; they applied to the Surveyor General's department, by a statement made by me, and now in the Surveyor General's office; but the answer was, that there was no law in the province to authorize the changing of a range-line, however incorrect, without the consent of all the parties concerned.

Then all parties did not concur in this case?—No, they did not.

Why not?—Because many of those who improperly gained by the error wished to retain what rightly belonged to their neighbour.

As the former application was fruitless, upon what ground do you now proceed?—Upon the confidence that as Lord

Durham has greater powers than other Governors, he may be pleased to consider this great loss of property to the people, and give orders to correct the evil.

Are you acquainted with other townships?—Yes.

Have you found the surveys of them generally correct or incorrect?—I have found the surveys of the township of Windsor as incorrect, or even more so than that of the township of Durham, which can be proved by the most reliable testimony. Generally, with the exception of the township of Wickham, I have found them quite incorrect. I speak only from my personal experience, and not from what I have heard.

Mr. Sewell, recently Chief Justice of the Province, says: —"I have known of many defects in the surveys, which have appeared in many cases before me, and am apprehensive that they are very numerous. I can only state, from my own opinion, two remedies by which these defects may be in some degree remedied: the one is by running anew the outlines of the several townships; the other an Act to give quiet possession, such as has been heretofore passed in other provinces. I am afraid that running the outlines of the townships would not be of any great benefit beyond exposing the errors." Mr. Kerr says:—"It is generally understood the surveys in many of the various townships are very inaccurate; and many of the surveys have been found to be so. I had in my hand the other day a patent for four lots in the township of Inverness, three of which did not exist, granted to a Captain Skinner. Three of the lots were decided not to be in existence; and I received compensation for them in another township. A great error was discovered in the original survey of the township of Leeds. The inaccuracy of the surveys is quite a matter of certainty. I could cite a number of townships, Milton, Upton, Orford, Shefford, &c., where the inaccuracy has been ascertained. Inconvenience from the inaccuracy of the surveys has been felt; but it is only now beginning to be so seriously. As the settlement of the country advances, and land acquires a

greater value, great inconvenience must arise in the shape of endless questions of title: and of this many people are so well aware, that they refuse to sell with a guarantee of title."

I may add, generally, that I found the surveying department in Lower Canada so thoroughly inefficient in its constitution, as to be incapable of any valuable improvement; and that I therefore abstained from interfering with it, trusting that the whole future management of the public lands would be placed on a new footing calculated to remedy this, as well as all the other evils of the present system.

Another of those evils requires some notice here. In the United States, the title to land purchased of the Government is obtained immediately and securely on payment of the purchase-money. In all the British Colonies, there is more or less of useless formality and consequent delay in procuring a complete title to land which has been paid for. Dr. Baldwin, speaking of Upper Canada, says: — "I do not know that there was any more constant subject of complaint, on the part of individuals, against the Government, than the delays of office, especially in connection with land-granting. It frequently happened to myself, and I believe to others also, that, during the time when free grants of land, of small amount, were made to actual settlers, persons who had spent their money in waiting for the completion of the grant, have applied to me for employment while the patent was being perfected, and I have furnished it for a short time. The most striking instance that occurred in my knowledge, in which an individual was injured by the delay to which he was exposed in this respect, was that of a man of the name of Burnes, who, in Sir Peregrine Maitland's time, having fallen in debt to some persons whom he had employed, was pressed by them for the money. At this time, a patent was in progress through the offices for him. He applied to his creditors to give him time till his patent was completed, which would enable him to raise money to pay them. The creditors were willing, and waited for some time, but at last became impatient, and they arrested him, and he was compelled to go to prison. The patent had passed through the offices, but he was compelled to remain in

prison a fortnight, while the patent was sent over to the Governor for his signature, at his residence, near the Falls of Niagara." A recent Act of the Legislature of Upper Canada has greatly mitigated this evil, which however remains in full force in Lower Canada. Mr. Kerr says, "As soon as the purchaser has paid the last instalment, he is referred to the Crown Lands' Officer, to whom the payment is made, for patent to the Surveyor General for the necessary specification. The specification, with reference, is sent to the Commissioner of Crown Lands. These documents are next sent to the Secretary of the Governor or Civil Secretary, who directs the Provincial Secretary to engross the patent. The fees are then levied, and, upon the payment of fees, the Provincial Secretary engrosses. On engrossment being made, the Governor signs the patent, and the great seal of the Province is attached to it. This signature is procured by the Provincial Secretary. The patent is then sent to the Commissioner of Crown Lands to be audited. At present one of the Commissioners audits: this used to be done by the Auditor, but the office of Auditor has been abolished. When the audit is made, the title is said to be perfected. The effect of having to refer to so many persons has been the total loss of many references, and the papers connected with them, in one or other of the offices. There have been cases in which I was referred three times for the same patent, all the papers having been lost twice successively. In some cases, the papers are found again, but at too late a period to be available. The shortest time within which I have known a title to be perfected is about six weeks, and the longest about eight years. More than ordinary diligence was used in the case of six weeks. I obtained an order from the Governor for a special reference for my patent to take priority of all others then in the office. The average period required for completing a title, after the purchase has been completed, by the payment of the whole of the purchase-money, is full 15 months. I am satisfied that the present system is a serious impediment to the settlement of the country; and that no extensive measure for that purpose can work well, unless the mode of obtaining title after purchase be rendered much more

simple. Immediate despatch with title is what is required to encourage purchasers, and prevent uncertainty and discontent. I have been directed by purchasers to apply for the return of their purchase-money from the Crown, because of the delay which has occurred. The present system is so profitable to agents, that, speaking as an agent, I should be sorry to see it abolished, One of the inconveniences to the public is the necessity of employing agents acquainted with the labyrinths through which each reference has to pass."

The results of this general mismanagement are thus illustrated by the chief agent for emigrants in Upper Canada :—

" The principal evils to which settlers in a new township are subject result from the scantiness of population. A township contains 80,000 acres of land ; one-seventh is reserved for the clergy and one-seventh for the Crown ; consequently five-sevenths remain for the disposal of Government, a large proportion of which is taken up by grants to U. E. loyalists, militiamen, officers, and others ; the far greater part of these grants remain in an unimproved state. These blocks of wild land place the actual settler in an almost hopeless condition ; he can hardly expect, during his lifetime, to see his neighbourhood contain a population sufficiently dense to support mills, schools, post-offices, places of worship, markets, or shops ; and without these, civilization retrogrades. Roads under such circumstances can neither be opened by the settlers, nor kept in proper repair, even if made by the Government. The inconvenience arising from want of roads is very great, and is best illustrated by an instance which came under my own observation in 1834. I met a settler from the township of Warwick on the Caradoc Plains, returning from the grist mill at Westminster, with the flour and bran of thirteen bushels of wheat ; he had a yoke of oxen and a horse attached to his waggon, and had been absent nine days, and did not expect to reach home until the following evening. Light as his load was, he assured me that he had to unload wholly or in part several times, and, after driving his waggon through the swamps, to pick out a road through the woods where the swamps or gulleys were fordable, and to carry the bags on his back and replace them in the waggon. Supposing the services

of the man and his team to be worth two dollars per day, the expense of transport would be twenty dollars. As the freight of wheat from Toronto to Liverpool [England] is rather less than 2*s*. 6*d*. per bushel, it follows that a person living in this city could get the same wheat ground on the banks of the Mersey, and the flour and bran returned to him at a much less expense than he could transport it from the rear of Warwick to Westminster and back—a distance less than 90 miles. Since 1834 a grist-mill has been built in Adelaide, the adjoining township, which is a great advantage to the Warwick settlers; but the people in many parts of the Province still suffer great inconvenience from the same cause."

Mr. Rankin, Deputy Land Surveyor, says, "The system of making large grants to individuals who had no intention of settling them, has tended to retard the prosperity of the colony, by separating the actual settlers, and rendering it so much more difficult, and in some cases impossible, to make the necessary roads. It has also made the markets more distant and more precarious. To such an extent have these difficulties been experienced, as to occasion the abandonment of settlements which had been formed. I may mention, as an instance of this, the township of Rama, where, after a trial of three years, the settlers were compelled to abandon their improvements. In the township of St. Vincent, almost all the most valuable settlers have left their farms from the same cause. There have been numerous instances in which, though the settlement has not been altogether abandoned, the most valuable settlers, after unavailing struggles of several years with the difficulties which I have described, have left their farms." This witness, who was for ten years employed by Government as Deputy Surveyor in the western district, which I have before described as the finest grain country in North America, states that "nine-tenths of the land granted by the Crown in that district are still in a state of wilderness."

For illustration of the same kind as respects Lower Canada, I would refer to the testimony of the Commissioner of Crown Lands, Mr. Kerr, the Deputy Postmaster General, Mr. Russell, Major Head, Mr. Keough, the late Chief Justice, and Mr. Lemesurier.

Mr. Kerr says, "The main obstacle to the speedy settlement and cultivation of all the more fertile parts of the Province is private land remaining wild; inasmuch as the land of the Crown is open to purchase, which is not generally the case with that of private individuals, excepting at too exorbitant a price. So injurious is the existence of this quantity of wild land, in the midst or in the neighbourhood of a settlement, that numerous cases have occurred in which a settler, after several years' residence upon his property, and having expended in labour from 20*l.* to 50*l.* in clearing part of it and building his house, has been driven to abandon the farm, and to sell it for one-third or even one-fourth of the sum that he had expended upon it. I have myself bought farms which have been abandoned in this way for the merest trifle. One, I recollect now, consisted of 100 acres, in the township of Kingsey, a beautiful part of the district of Three Rivers, with rather more than 20 acres cleared, and a good house and outhouses erected upon it, for which I paid under 30*l.* I could give very many instances of a similar kind, where I have either purchased myself, or have had a personal knowledge of the circumstances."

One of the most remarkable instances of evils resulting from profuse grants of land is to be found in Prince Edward's Island. Nearly the whole of the island (about 1,400,000 acres) was alienated in one day, in very large grants, chiefly to absentees, and upon conditions which have been wholly disregarded. The extreme improvidence which dictated these grants is obvious: the neglect of the Government as to enforcing the conditions of the grants, in spite of the constant efforts of the people and the legislature to force upon its attention the evils under which they laboured, is not less so. The great bulk of the island is still possessed by absentees, who hold it as a sort of reversionary interest, which requires no present attention, but may become valuable some day or other through the growing wants of the inhabitants. But in the mean time, the inhabitants are subjected to the greatest inconvenience, nay, to the most serious injury, from the state of property in land. The absent proprietors neither improve the land, nor will let others improve it. They retain the land, and keep it

in a state of wilderness. I have in another place adverted to the remedy proposed, and the causes, which have long retarded its adoption. The feelings of the colonists on the subject are fully expressed in the evidence of Mr. Lelacheur, Mr. Solicitor General Hodgson, and the Governor, Sir Charles Fitzroy. I may add, that their testimony was confirmed by that of the delegates from the Island who visited me at Quebec.

In the above enumeration of facts, I do not profess to have exhausted the long catalogue of evils and abuses which were brought to my notice. But I have stated enough, I trust, to establish the position with which I set out,—that the disposal of public lands in a new country has more influence on the prosperity of the people than any other branch of Government; and further to make it evident, that the still existing evils which have been occasioned by mismanagement in this department, are so great and general as to require a comprehensive and effectual remedy, applied to all the Colonies, before any merely political reform can be expected to work well.

I now proceed to another subject, which, though ultimately connected with the colonization and improvement of the Provinces, must yet be considered separately; for it is one in which not the colonial population only, but the people of the United Kingdom have a deep and immediate interest. I allude to the manner in which the emigration of the poorer classes from Great Britain and Ireland to the North American Colonies has hitherto been conducted.

About nine years ago, measures were for the first time taken to ascertain the number of immigrants arriving at Quebec by sea. The number during these nine years has been 263,089; and there have been as many in one year (1832) as 51,746. In the year before, the number was 50,254; in 1833, 21,752; in 1834, 30,935; in 1835, 12,527; in 1836, 27,728; in 1837, 22,500; and in 1838, only 4,992. The great diminution in 1838 was occasioned solely, I believe, by the vague fears entertained in this country of dangers presented by the distracted state of the Colonies. I am truly surprised, however, that emigration of the poorer classes to the Canadas did not almost entirely cease some years ago; and that this would have been the case, if the

facts which I am about to state had been generally known in the United Kingdom, there can, I think, be no rational doubt.

Dr. Morrin, a gentleman of high professional and personal character, Inspecting Physician of the Port of Quebec, and Commissioner of the Marine and Emigrant Hospital, says:— "I am almost at a loss for words to describe the state in which the emigrants frequently arrived; with a few exceptions, the state of the ships was quite abominable; so much so, that the harbour-master's boatmen had no difficulty, at the distance of gun-shot, either when the wind was favourable or in a dead calm, in distinguishing by the odour alone a crowded emigrant ship. I have known as many as from 30 to 40 deaths to have taken place, in the course of a voyage, from typhus fever on board of a ship containing from 500 to 600 passengers; and within six weeks after the arrival of some vessels, and the landing of the passengers at Quebec, the hospital has received upwards of 100 patients at different times from among them. On one occasion I have known nearly 400 patients at one time in the Emigrant Hospital of Quebec, for whom there was no sufficient accommodation; and in order to provide them with some shelter, Dr. Painchaud, the then attending physician, with the aid of other physicians, incurred a personal debt to the Quebec Bank to a considerable amount, which, however, was afterwards paid by the Provincial Legislature." * * * * "The mortality was considerable among the emigrants at that time, and was attended with most disastrous consequences; children being left without protection, and wholly dependent on the casual charity of the inhabitants of the city. As to those who were not sick on arriving, I have to say that they were generally forcibly landed by the masters of vessels, without a shilling in their pockets to procure them a night's lodging, and very few of them with the means of subsistence for more than a very short period. They commonly established themselves along the wharfs and at the different landing-places, crowding into any place of shelter they could obtain, where they subsisted principally upon the charity of the inhabitants. For six weeks at a time, from the commencement of the emigrant-

ship season, I have known the shores of the river along Quebec, for about a mile and a half, crowded with these unfortunate people, the places of those who might have moved off being constantly supplied by fresh arrivals, and there being daily drafts of from 10 to 30 taken to the hospital with infectious disease. The consequence was, its spread among the inhabitants of the city, especially in the districts in which these unfortunate creatures had established themselves. Those who were not absolutely without money, got into low taverns and boarding-houses and cellars, where they congregated in immense numbers, and where their state was not any better than it had been on board ship. This state of things existed within my knowledge from 1826 to 1832, and probably for some years previously."

Dr. Morrin's testimony is confirmed by that of Dr. Skey, Deputy Inspector General of Hospitals, and President of the Quebec Emigrants' Society. He says, "Upon the arrival of emigrants in the river, a great number of sick have landed. A regular importation of contagious disease into this country has annually taken place: that disease originated on board ship, and was occasioned, I should say, by bad management, in consequence of the ships being ill-found, ill-provisioned, over-crowded, and ill-ventilated. I should say, that the mortality during the voyage has been dreadful; to such an extent, that, in 1834, the inhabitants of Quebec, taking alarm at the number of shipwrecks, at the mortality of the passengers, and the fatal diseases which accumulated at the Quarantine Establishment at Grosse Isle and the Emigrant Hospital of this city, involving the inhabitants of Quebec in the calamity, called upon the Emigrants' Society to take the subject into consideration, and make representations to the Government thereon."

The circumstances described took place under the operation of the Act 9th Geo. 4, commonly called the Passengers' Act, which was passed in 1825, repealed in 1827, and re-enacted in 1828. In 1835, an amended Passengers' Act was passed, the main features of which, so far as they differed from the former Act, are stated to have been suggested by the Quebec Emigrants' Society. Mr. Jessopp, Collector of

Customs at the Port of Quebec, speaking of emigration under the last Act, says, "It very often happens that poorer emigrants have not a sufficiency of provisions for the voyage; that they should have a sufficiency of provisions might be enforced under the Act, which authorizes the inspection of provisions by the outport agent for emigrants. Many instances have come to my knowledge in which, from insufficiency of provisions, emigrants have been thrown upon the humanity of the captain, or the charity of their fellow-passengers. It will appear, also, from the fact that many vessels have more emigrant passengers than the number allowed by law, that sufficient attention is not paid at the outport to enforce the provisions of the Act, as to the proportions between the numbers and the tonnage. Such instances have not occurred this season (1838), emigration having almost ceased, in consequence, I presume, of the political state of the Province; but, last year, there were several instances in which prosecution took place. Vessels are chartered for emigration by persons whose sole object is to make money, and who make a trade of evading the provisions of the Act. This applies particularly to vessels coming from Ireland. We have found, in very many instances, that, in vessels chartered in this way, the number was greater than allowed by law; and the captains have declared, that the extra numbers smuggled themselves, or were smuggled, on board, and were only discovered after the vessel had been several days at sea. This might be prevented by a stricter examination of the vessel. The Imperial Act requires that the names, ages, sex, and occupation of each passenger should be entered in a list, certified by the customs' officer at the outport, and delivered by the captain with the ship's papers to the officers of the customs here. Lists, purporting to be correct, are always delivered to the tide-surveyor, whose duty it is to muster the passengers, and compare them with the list; and this list, in many instances, is wholly incorrect as to names and ages." * * * * * "The object of the falsification of the ages is to defraud the revenue, by evading the tax upon emigrants." * * * * * "The falsification of names produces no inconvenience; and I have only referred

to it for the purpose of showing the careless manner in which the system is worked by the agents in the United Kingdom." But Dr. Poole, Inspecting Physician of the Quarantine Station at Grosse Isle, further explains the fraud, saying, "These falsifications are, first, for the purpose of evading the emigrant tax, which is levied in proportion to age, and the common fraud is to understate the age; and, secondly, for the purpose of carrying more passengers than the law allows, by counting grown persons as children, of which last, the law allows a larger proportion to tonnage than of grown persons. This fraud is very common, of frequent occurrence, and it arises manifestly from want of inspection at home."

From this and other evidence, it will appear that the Amended Passengers' Act alone, as it has been hitherto administered, would have afforded no efficient remedy of the dreadful evils described by Dr. Morrin and Dr. Skey. Those evils have, however, been greatly mitigated by two measures of the Provincial Government: first, the application of a tax upon passengers from the United Kingdom, to providing shelter, medical attendance, and the means of further transport to destitute emigrants; secondly, the establishment of the Quarantine Station at Grosse Isle, a desert island some miles below Quebec, where all vessels arriving with cases of contagious disease are detained; the diseased persons are removed to an hospital, and emigrants not affected with disease are landed, and subjected to some discipline for the purpose of cleanliness, the ship also being cleaned while they remain on shore. By these arrangements, the accumulation of wretched paupers at Quebec, and the spread of contagious disease, are prevented. An arrangement, made only in 1837, whereby the Quarantine physician at Grosse Isle decides whether or not an emigrant ship shall be detained there or proceed on its voyage, has, to use the words of Dr. Poole, "operated as a premium to care and attention on the part of the captain, and has had a salutary effect on the comfort of the emigrants."

I cordially rejoice in these improvements, but would observe that the chief means by which the good has been accomplished indicates the greatness of the evil that remains. The necessity

of a Quarantine Establishment for preventing the importation of contagious disease from Britain to her Colonies, as if the emigrants had departed from one of those Eastern countries which are the home of the plague, shows beyond a doubt either that our very system of emigration is most defective, or that it is most carelessly administered.

It is, I know, contended in this country that, though great defects existed formerly, present arrangements are very different and no longer objectionable. For example, in the Report of the Agent General for Emigration from the United Kingdom, ordered by the House of Commons to be printed 14th May 1838, it is stated, with reference to that emigration to the Canadas before the year 1832, which has been described by Dr. Morrin and Dr. Skey, eye-witnesses of the miseries and calamities that took place, that "these great multitudes had gone out by their own means, and disposed of themselves through their own efforts, without any serious or lasting inconvenience." * * * * "A practice," it is added, "which appeared to thrive so well spontaneously."

The same Report states, with reference to the present operation of the Passengers' Act, and the officers employed by the Colonial department to superintend its execution, that "their duty is to give ease and security to the resort to the Colonies, and to promote the observance of the salutary provisions of the Passengers' Act. In all that relates to emigration they constitute, as it were, in every port the appointed poor man's friend. They take notice whether the ship offered for his conveyance is safe, and fit for its purpose; they see to the sufficiency of the provisions on board; they prohibit overcrowding; and they make every effort to avert or to frustrate those numerous and heartless frauds which are but too constantly attempted at the moment of departure upon the humbler classes of emigrants." "Every effort," adds the Reporter, speaking of emigrants to North America, "is made for the ease and safety of their transit."

At Quebec, at least, where are landed the great majority of emigrants to the North American Colonies, an opinion prevails which is greatly at variance with the above representation. Nobody in the Colony denies that the Passengers'

Act, and the appointment of agents to superintend its execution, is a considerable improvement upon the utterly lawless and unobserved practices of former times; nor, I should imagine, would any one in this country object to such an approach, however distant, to the systematic and responsible management of emigration, which has been repeatedly urged upon the Government of late years; but that there is still great room for further improvement, as respects emigration to the Colonies in North America, is, I think, established by Mr. Jessopp, and the following evidence of Dr. Poole.

Dr. Poole holds an important office, of which I am enabled to state that he has performed the duties with great skill and exemplary diligence. He did not volunteer the information which he has supplied. He was summoned to give evidence before the Commissioners of Inquiry on Crown Lands and Emigration; and it was in answer to questions put to him that he said, "I have been attached to the Station at Grosse Isle for the last six years. My description applies down to the present year. We had last year upwards of 22,000 emigrants. The poorer class of Irish, and the English paupers sent by parishes, were, on the arrival of vessels, in many instances entirely without provisions, so much so, that it was necessary immediately to supply them with food from shore; and some of these ships had already received food and water from other vessels with which they had fallen in. Other vessels, with the same class of emigrants, were not entirely destitute, but had suffered much privation from having been placed on short allowance. This destitution, or shortness of provisions, combined with dirt and bad ventilation, had invariably produced fevers of a contagious character, and occasioned some deaths on the passage; and from such vessels numbers, varying from 20 to 90 each vessel, had been admitted to hospital with contagious fevers immediately on their arrival. I attribute the whole evil to defective arrangements; for instance, parish emigrants from England receive rations of biscuit and beef, or pork, often of bad quality (of this I am aware from personal inspection); they are incapable from sea-sickness of using this solid food at the beginning of the passage, when, for want of small stores, such as tea, sugar, coffee, oatmeal, and flour, they fall into a

state of debility and low spirits, by which they are incapacitated from the exertions required for cleanliness and exercise, and also indisposed to solid food, more particularly the women and children; and, on their arrival here, I find many cases of typhus fever among them." * * * * "I also wish to mention, as loudly calling for remedy, a system of extortion carried on by masters of vessels, chiefly from Ireland, whence come the bulk of our emigrants. The captain tells emigrants the passage will be made in three weeks or a month, and they need not lay in provisions for any longer period, well knowing that the average passage is six weeks, and that it often extends to eight or nine weeks. When the emigrants' stores are exhausted, the captain, who has laid in a stock for the purpose, obliges them to pay often as much as 400 per cent. on the cost price for the means of subsistence, and thus robs the poor emigrant of his last shilling. Such cases are of frequent occurrence, even down to the present year." * * * "Parish emigrants are generally at the mercy of the captain or mate, who serve out the provisions, and who frequently put emigrants on short allowance soon after their departure. Complaints of short weight and bad quality in the provisions are frequently made." * * * * "The captains have, in many instances, told me, that the agents only muster the passengers on deck, inquire into the quantity of provisions, and, in some cases, require them to be produced, when, occasionally, the same bag of meal or other provisions was shown as belonging to several persons in succession. This the captain discovered after sailing. The mere mustering of the passengers on deck, without going below where the provisions are kept, is really no inspection at all; and it frequently happens that passengers are smuggled on board without any provisions." * * * * "Very few of these vessels have on board a sufficient quantity of water, the casks being insufficient in number, and very many of them old oak casks, made up with pine heads, which therefore leak, if they do not fall to pieces, which often happens. I have had many similar cases from Liverpool." * * * * "That part of the law which regulates the height between decks of emigrant ships is frequently evaded in the smaller class of vessels, by means of

a false deck some distance below the beams, bringing the passengers nearly in contact with the damp ballast, pressing them into the narrow part of the ship, and the beams taking an important part of the room allotted to them by law. It is quite impossible that such fittings should escape observation in the port of departure, if that part of the vessel intended for emigrants be visited." * * * * "There is another evil which might be readily obviated by a proper selection of vessels at home, that of employing as emigrant-ships vessels that are scarcely sea-worthy; and which, consequently, being unable to carry sail, make very long passages. As the tonnage of the best class of vessels coming to Canada is more than sufficient to bring all the emigrants in any year, the employment of these bad ships ought not to be permitted." * * * * "The reports made to me by the class of captains and surgeon-superintendents now bringing passengers are seldom to be relied upon. In illustration, I beg leave to mention a case that occurred last year. It was a vessel with about 150 passengers on board, from an Irish port. The captain assured me that they had no sickness on board; and the surgeon produced a list, which he had signed, of certain slight ailments, such as bowel complaints and catarrhs, which had occurred during the passage, and which appeared on the list with the remark "cured" to all of them. On making my usual personal inspection, I found and sent to hospital upwards of forty cases of typhus fever, of which nine were below in bed. These nine they had not been able to get out of bed. Many of the others were placed against the bulwarks, to make a show of being in health, with pieces of bread and hot potatoes in their hands. As there are many most respectable captains in the lumber trade, a proper selection by the emigrant agents at home would prevent this abuse." * * * * "The medical superintendence on board vessels obliged by the Passengers' Act to carry a surgeon is very defective. The majority of such persons called surgeons are unlicensed students and apprentices, or apothecaries' shopmen, without sufficient medical knowledge to be of any service to the emigrants, either for the prevention or cure of diseases. On board a ship the knowledge of the means of

preventing disease in such a situation is the first requisite in a medical man, and in this the medical superintendents are lamentably deficient. It is not much better as to the cure of diseases. I boarded a ship last year, of which the captain and three passengers, who had met with accidents, had their limbs bandaged for supposed fractures, which, upon examination, I found were only simple strains or bruises. On examining the captain's arm, I said that there had been no fracture. The surgeon, so called, replied—'I assure you the *tibia* and *fibula* are both broken.' It happens that the *tibia* and *fibula* are bones of the leg. This is an extreme case, apparently; but it is not an unfair illustration of the ignorance and presumption of the class of men appointed to comply with that part of the Act which is intended to provide for the medical care of emigrants during the voyage."

The Agent General's Report, which was laid before Parliament last year, does not even allude to another feature of our system of emigration, on which I have yet to offer some remarks. However defective the present arrangements for the passage of emigrants, they are not more so than the means employed to provide for the comfort and prosperity of this class after their arrival in the Colonies. Indeed, it may be said that no such means are in existence. It will be seen, from the very meagre evidence of the Agent for Emigrants at Quebec, that the office which he holds is next to useless. I cast no blame on the officer, but would only explain that he has no powers, nor scarcely any duties to perform. Nearly all that is done for the advantage of poor emigrants, after they have passed the Lazaretto, is performed by the Quebec and Montreal and Emigrants' Societies—benevolent associations of which I am bound to speak in the highest terms of commendation; to which, indeed, we owe whatever improvement has taken place in the yet unhealthy mid-passage, but which, as they were instituted for the main purpose of relieving the inhabitants of the two cities from the miserable spectacle of crowds of unemployed and starving emigrants, so have their efforts produced little other good than that of facilitating the progress of poor emigrants to the United

States, where the industrious of every class are always sure of employment at good wages. In the Report on Emigration, to which I have alluded before, I find favourable mention of the principle of entrusting some parts of the conduct of emigration rather to "charitable committees" than to "an ordinary department of Government." From this doctrine I feel bound to express my entire dissent. I can scarcely imagine any obligation which it is more incumbent on Government to fulfil, than that of guarding against an improper selection of emigrants, and securing to poor persons disposed to emigrate every possible facility and assistance, from the moment of their intending to leave this country to that of their comfortable establishment in the Colony. No less an obligation is incurred by the Government, when, as is now the case, they invite poor persons to emigrate by tens of thousands every year. It would, indeed, be very mischievous if the Government were to deprive emigrants of self-reliance, by doing every thing for them: but when the State leads great numbers of people into a situation in which it is impossible that they should do well without assistance, then the obligation to assist them begins; and it never ends, in my humble opinion, until those who have relied on the truth and paternal care of the Government, are placed in a situation to take care of themselves. How little this obligation has been regarded, as respects emigration to Your Majesty's North American Colonies, will be seen from the following evidence:—

Mr. Buchanan, the chief agent for emigrants at Quebec, says, "I have had no communication from the agent-general of emigration;" and, "The instructions I have mentioned, as regulating the proceedings of my office, do not, I conceive, contain any specific directions as to the duties I have to perform. In fact, they were not addressed to my office at all. I suppose that they were transmitted to my predecessor, in order that he might be acquainted with the views of the Home Government on the subject." "There may have been specific instructions for the guidance of the agent for emigrants, but I am not aware of any. I have myself followed the routine that I found established."

Dr. Skey says, "A pauper emigrant on his arrival in this Province is generally either with nothing or with a very small sum in his pocket; entertaining the most erroneous ideas as to his prospects here: expecting immediate and constant employment at ample wages; entirely ignorant of the nature of the country, and of the place where labour is most in demand, and of the best means by which to obtain employment. He has landed from the ship, and from his apathy and want of energy has loitered about the wharfs, waiting for the offer of employment; or, if he obtained employment, he calculated upon its permanency, and found himself, at the beginning of the winter, when there is little or no employment for labour in this part of the country, discharged, and without any provision for the wants of a Canadian winter. In this way emigrants have often accumulated in Quebec at the end of summers, encumbered it with indigent inhabitants, and formed the most onerous burthen on the charitable funds of the community."

Mr. Forsyth says, "Emigration has improved of late years with regard to the destitute sick and to the totally destitute by means of the emigrant society, and the fund raised by the emigrant tax; but with regard to the main body of emigrants, the evil results of a total want of system are as conspicuous as ever. The great evils that have hitherto existed have arisen from the want of system, and especially from the want of all adequate means of information, advice, and guardianship. This want of information necessarily gives a vagrant character to their movements. Unable to obtain information as to the best mode of proceeding in this Province, they move onward to Toronto, and find the same want there; they become disgusted, and leave the Province in large numbers, to become citizens of the American Union. My observation on the subject has led me to estimate the proportion of emigrants from Britain who proceed to the United States, at 60 in 100 during the last few years."

Mr. Stayner says, "Many of these poor people have little or no agricultural knowledge, even in a general way; and they are all ignorant of the husbandry practised in the country. The consequence is, that, after getting into 'the bush,' as it

is called, they find themselves beset by privations and difficulties which they are not able to contend with, and, giving way under the pressure, they abandon their little improvements to seek a livelihood elsewhere. Many resort to the large towns in the Provinces, with their starving families, to eke out by day-labour and begging together a wretched existence; whilst others of them (more enterprising) are tempted, by the reputed high wages and more genial climate of the United States, to try their fortunes in that country. Now and then, some individual better gifted, and possessing more energy of character than the mass of the adventurers who arrive, will successfully contend with those difficulties, and do well for himself and family; but the proportion of such is small."

Mr. Jessopp says, "Emigrants sent out by parishes are very generally inferior, both morally and physically, to those who have found their own way out. The parishes have sent out persons far too old to gain their livelihood by work, and often of drunken and improvident habits. These emigrants have neither benefited themselves nor the country; and this is very natural, for, judging from the class sent out, the object must have been the getting rid of them, and not either the benefit of themselves or the colony. An instance occurred very recently, which illustrates this subject. A respectable settler in the Eastern Townships lately returned from England in a vessel, on board of which there were 136 pauper passengers sent out at the expense of their parishes; and out of the whole number he could only select two that he was desirous of inducing to settle in the eastern townships. The conduct of the others, both male and female, was so bad, that he expressed his wish that they might proceed to the upper province, instead of settling in this district. He alluded principally to gross drunkenness and unchastity. * * * * * The inhabitants of Quebec and Montreal are subject to constant appeals from persons who arrive here, and linger about in a state of total destitution."

The most striking example, however, of the want of system and precaution on the part of Government is that of

the old soldiers, termed Commuted Pensioners, of whom nearly 3,000 reached the colonies in the years 1832 and 1833. A full description of the fate of these unfortunate people will be found in the evidence of Mr. Davidson and others. Many of them landed in Quebec before the instructions had been received in the colony to pay them the sums to which they were to be entitled on their arrival, and even before the Provincial Government knew of their departure from England. Many of them spent the amount of their commutation money in debauchery, or were robbed of it when intoxicated. Many never attempted to settle upon the land awarded to them; and of those who made the attempt, several were unable to discover whereabouts in the wilderness their grants were situated. Many of them sold their right to the land for a mere trifle, and were left, within a few weeks of their arrival, in a state of absolute want. Of the whole number who landed in the colony, probably not one in three attempted to establish themselves on their grants, and not one in six remain settled there at the present time; the remainder generally lingered in the vicinity of the principal towns, where they contrived to pick up a subsistence by begging and occasional labour. Great numbers perished miserably in the two years of cholera, or from diseases engendered by exposure and privations, and aggravated by their dissolute habits. The majority of them have at length disappeared. The situation of those who survive calls loudly for some measure of immediate relief: it is one of extreme destitution and suffering. Their land is almost entirely useless, and they cannot obtain any adequate employment either as farm labourers or as domestic servants. At the commencement of every winter, therefore, they are thrown upon the charity of individuals. In the Upper Province their situation is equally deplorable, and numbers must have perished from absolute starvation if they had not been fed by the Provincial Government. I confidently trust that their pensions may be restored, and that, in future, whenever the Government shall interfere directly or indirectly in promoting the emigration of poor persons to these colonies, it will be under some systematic arrangements

calculated to prevent the selection of classes disqualified from gaining by their removal, and to guard the other classes from the misfortunes, into which they are now apt to fall through ignorance of the new country, and the want of all preparation for their arrival.

It is far from my purpose, in laying these facts before Your Majesty, to discourage emigration to Your North American colonies. On the contrary, I am satisfied that the chief value of those colonies to the mother country consists in their presenting a field where millions even, of those who are distressed at home, might be established in plenty and happiness. All the gentlemen whose evidence I have last quoted, are warm advocates of systematic emigration. I object, along with them, only to such emigration as now takes place—without forethought, preparation, method, or system of any kind.

I HAVE now brought under review the most prominent features of the condition and institutions of the British Colonies in North America. It has been my painful task to exhibit a state of things which cannot be contemplated without grief by all who value the well-being of our colonial fellow-countrymen, and the integrity of the British Empire. I have described the operation of those causes of division which unhappily exist in the very composition of society; the disorder produced by the working of an ill-contrived constitutional system, and the practical mismanagement which these fundamental defects have generated in every department of Government.

It is not necessary that I should take any pains to prove that this is a state of things which should not, which cannot continue. Neither the political nor the social existence of any community can bear much longer the operation of those causes, which have in Lower Canada already produced a long practical cessation of the regular course of constitutional government, which have occasioned the violation and necessitated the absolute suspension of the provincial constitution, and which have resulted in two insurrections, two

substitutions of martial for civil law, and two periods of a general abeyance of every guarantee that is considered essential for the protection of a British subject's rights. I have already described the state of feeling which prevails among each of the contending parties, or rather races; their all-pervading and irreconcileable enmity to each other; the entire and irremediable disaffection of the whole French population, as well as the suspicion with which the English regard the Imperial Government; and the determination of the French, together with the tendency of the English to seek for a redress of their intolerable present evils in the chances of a separation from Great Britain. The disorders of Lower Canada admit of no delay; the existing form of government is but a temporary and forcible subjugation. The recent constitution is one of which neither party would tolerate the re-establishment, and of which the bad working has been such, that no friend to liberty or to order could desire to see the Province again subjected to its mischievous influence. Whatever may be the difficulty of discovering a remedy, its urgency is certain and obvious.

Nor do I believe that the necessity for adopting some extensive and decisive measure for the pacification of Upper Canada, is at all less imperative. From the account which I have given of the causes of disorder in that Province, it will be seen that I do not consider them by any means of such a nature as to be irremediable, or even to be susceptible of no remedy, that shall not effect an organic change in the existing constitution. It cannot be denied indeed that the continuance of the many practical grievances, which I have described as subjects of complaint, and, above all, the determined resistance to such a system of responsible government as would give the people a real control over its own destinies, have, together with the irritation caused by the late insurrection, induced a large portion of the population to look with envy at the material prosperity of their neighbours in the United States, under a perfectly free and eminently responsible government; and, in despair of obtaining such benefits under their present institutions, to

desire the adoption of a Republican constitution, or even an incorporation with the American Union. But I am inclined to think that such feelings have made no formidable or irreparable progress; on the contrary, I believe that all the discontented parties, and especially the reformers of Upper Canada, look with considerable confidence to the result of my mission. The different parties believe that when the case is once fairly put before the mother country, the desired changes in the policy of their government will be readily granted: they are now tranquil, and I believe loyal; determined to abide the decision of the Home Government, and to defend their property and their country against rebellion and invasion. But I cannot but express my belief that this is the last effort of their almost exhausted patience, and that the disappointment of their hopes on the present occasion, will destroy for ever their expectation of good resulting from British connection. I do not mean to say that they will renew the rebellion, much less do I imagine that they will array themselves in such force as will be able to tear the government of their country from the hands of the great military power which Great Britain can bring against them. If now frustrated in their expectations, and kept in hopeless subjection to rulers irresponsible to the people, they will, at best, only await in sullen prudence the contingencies which may render the preservation of the Province dependent on the devoted loyalty of the great mass of its population.

With respect to the other North American Provinces, I will not speak of such evils as imminent, because I firmly believe that whatever discontent there may be, no irritation subsists which in any way weakens the strong feeling of attachment to the British Crown and Empire. Indeed, throughout the whole of the North American Provinces there prevails among the British population an affection for the mother country, and a preference for its institutions, which a wise and firm policy, on the part of the Imperial Government, may make the foundation of a safe, honourable, and enduring connection. But even this feeling may be

impaired, and I must warn those in whose hands the disposal of their destinies rests, that a blind reliance on the all-enduring loyalty of our countrymen may be carried too far. It is not politic to waste and cramp their resources, and to allow the backwardness of the British Provinces everywhere to present a melancholy contrast to the progress and prosperity of the United States. Throughout the course of the preceding pages, I have constantly had occasion to refer to this contrast. I have not hesitated to do so, though no man's just pride in his country, and firm attachment to its institutions, can be more deeply shocked by the mortifying admission of inferiority. But I should ill discharge my duty to Your Majesty, I should give but an imperfect view of the real condition of these Provinces, were I to detail mere statistical facts without describing the feelings which they generate in those who observe them daily, and daily experience their influence on their own fortunes. The contrast which I have described, is the theme of every traveller who visits these countries, and who observes on one side of the line the abundance, and on the other the scarcity of every sign of material prosperity which thriving agriculture and flourishing cities indicate, and of that civilization which schools and churches testify even to the outward senses. While it excites the exultation of the enemies of British institutions, its reality is more strongly evinced by the reluctant admission of Your Majesty's most attached subjects. It is no true loyalty to hide from Your Majesty's knowledge the existence of an evil which it is in Your Majesty's power, as it is Your Majesty's benevolent pleasure, to remove. For the possibility of reform is yet afforded by the patient and fervent attachment which Your Majesty's English subjects in all these Provinces still feel to their allegiance and their mother country. Calm reflection and loyal confidence have retained these feelings unimpaired, even by the fearful drawback of the general belief that every man's property is of less value on the British than on the opposite side of the boundary. It is time to reward this noble confidence, by showing that men have not indulged in vain the hope that there is a power in British institutions to

rectify existing evils, and to produce in their place a well-being which no other dominion could give. It is not in the terrors of the law, or in the might of our armies, that the secure and honourable bond of connection is to be found. It exists in the beneficial operation of those British institutions which link the utmost development of freedom and civilization with the stable authority of an hereditary monarchy, and which, if rightly organized and fairly administered in the Colonies, as in Great Britain, would render a change of institutions only an additional evil to the loss of the protection and commerce of the British Empire.

But while I count thus confidently on the possibility of a permanent and advantageous retention of our connection with these important Colonies, I must not disguise the mischief and danger of holding them in their present state of disorder. I rate the chances of successful rebellion as the least danger in prospect. I do not doubt that the British Government can, if it choose to retain these dependencies at any cost, accomplish its purpose. I believe that it has the means of enlisting one part of the population against the other, and of garrisoning the Canadas with regular troops sufficient to awe all internal enemies. But even this will not be done without great expense and hazard. The experience of the last two years, furnishes only a foretaste of the cost to which such a system of government will subject us. On the lowest calculation, the addition of a million a year to our annual colonial expenditure will barely enable us to attain this end. Without a change in our system of government, the discontent which now prevails, will spread and advance. As the cost of retaining these Colonies increases, their value will rapidly diminish. And if by such means the British Nation shall be content to retain a barren and injurious sovereignty, it will but tempt the chances of foreign aggression, by keeping continually exposed to a powerful and ambitious neighbour a distant dependency, in which an invader would find no resistance, but might rather reckon on active co-operation from a portion of the resident population.

I am far from presenting this risk in a manner calculated to

irritate the just pride which would shrink from the thoughts of yielding to the menaces of a rival nation. Because, important as I consider the foreign relations of this question, I do not believe that there is now any very proximate danger of a collision with the United States, in consequence of that power desiring to take advantage of the disturbed state of the Canadas. In the Despatch of the 9th of August I have described my impression of the state of feeling with respect to the Lower Canadian insurrection, which had existed, and was then in existence, in the United States. Besides the causes of hostile feeling which originate in the mere juxta-position of that power to our North American Provinces, I described the influence which had undoubtedly been exercised by that mistaken political sympathy with the insurgents of Lower Canada, which the inhabitants of the United States were induced to entertain. There is no people in the world so little likely as that of the United States to sympathize with the real feelings and policy of the French Canadians; no people so little likely to share in their anxiety to preserve ancient and barbarous laws, and to check the industry and improvement of their country, in order to gratify some idle and narrow notion of a petty and visionary nationality. The Americans who have visited Lower Canada, perfectly understand the real truth of the case; they see that the quarrel is a quarrel of races; and they certainly show very little inclination to take part with the French Canadians and their institutions. Of the great number of American travellers, coming from all parts of the Union, who visited Quebec during my residence there, and whose society I, together with the gentlemen attached to my mission, had the advantage of enjoying, not one ever expressed to any of us any approbation of, what may be termed, the national objects of the French Canadians, while many did not conceal a strong aversion to them. There is no people in the world to whom the French Canadian institutions are more intolerable, when circumstances compel submission to them. But the mass of the American people had judged of the quarrel from a distance: they had been obliged to form their judgment on the apparent grounds of the controversy;

and were thus deceived, as all those are apt to be who judge under such circumstances, and on such grounds. The contest bore some resemblance to that great struggle of their own forefathers, which they regard with the highest pride. Like that, they believed it to be a contest of a Colony against the Empire, whose misconduct alienated their own country: they considered it to be a contest undertaken by a people professing to seek independence of distant control, and extension of popular privileges; and, finally, a contest of which the first blow was struck in consequence of a violation of a colonial constitution, and the appropriation of the colonial revenues without the consent of the colonists. It need not surprise us, that such apparently probable and sufficient causes were generally taken, by the people of the United States, as completely accounting for the whole dispute; that the analogy between the Canadian insurrection and the War of Independence was considered to be satisfactorily made out; and that a free and high-spirited people eagerly demonstrated its sympathy with those whom it regarded as gallantly attempting, with unequal means, to assert that glorious cause which its own fathers had triumphantly upheld.

In the case of Upper Canada, I believe the sympathy to have been much more strong and durable; and though the occasion of the contest was apparently less marked, I have no doubt that this was more than compensated by the similarity of language and manners, which enabled the rebels of the Upper Province to present their case much more easily and forcibly to those whose sympathy and aid they sought. The incidents of any struggle of a large portion of a people with its Government, are sure, at some time or another, to elicit some sympathy with those who appear, to the careless view of a foreign nation, only as martyrs to the popular cause, and as victims of a Government conducted on principles differing from its own. And I have no doubt that if the internal struggle be renewed, the sympathy from without will, at some time or another, reassume its former strength.

For it must be recollected that the natural ties of sympathy

between the English population of the Canadas and the inhabitants of the frontier States of the Union are peculiarly strong. Not only do they speak the same language, live under laws having the same origin, and preserve the same customs and habits, but there is a positive alternation, if I may so express it, of the populations of the two countries. While large tracts of the British territory are peopled by American citizens, who still keep up a constant connection with their kindred and friends, the neighbouring States are filled with emigrants from Great Britain, some of whom have quitted Canada after unavailing efforts to find there a profitable return for their capital and their labour; and many of whom have settled in the United States, while other members of their families, and the companions of their youth, have taken up their abode on the other side of the frontier. I had no means of ascertaining the exact degree of truth in some statements which I have heard respecting the number of Irish settled in the State of New York; but it is commonly asserted that there are no less than 40,000 Irish in the militia of that State. The intercourse between these two divisions of what is, in fact, an identical population, is constant and universal. The border townships of Lower Canada are separated from the United States by an imaginary line; a great part of the frontier of Upper Canada by rivers, which are crossed in ten minutes; and the rest by lakes, which interpose hardly a six hours' passage between the inhabitants of each side. Every man's daily occupations bring him in contact with his neighbours on the other side of the line; the daily wants of one country are supplied by the produce of the other; and the population of each is in some degree dependent on the state of trade and the demands of the other. Such common wants beget an interest in the politics of each country among the citizens of the other. The newspapers circulate in some places almost equally on the different sides of the line; and men discover that their welfare is frequently as much involved in the political condition of their neighbours as of their own countrymen.

The danger of any serious mischief from this cause appears to me to be less at the present moment than for some time

past. The events of the last year, and the circulation of more correct information respecting the real causes of contention, have apparently operated very successfully against the progress or continuance of this species of sympathy; and I have the satisfaction of believing that the policy which was pursued during my administration of the government, was very efficient in removing it. The almost complete unanimity of the press of the United States, as well as the assurances of individuals well conversant with the state of public opinion in that country, convince me, that the measures which I adopted met with a concurrence that completely turned the tide of feeling in favour of the British Government. Nor can I doubt, from the unvarying evidence that I have received from all persons who have recently travelled through the frontier states of the Union, that there hardly exists, at the present moment, the slightest feeling which can properly be called sympathy. Whatever aid the insurgents have recently received from citizens of the United States, may either be attributed to those national animosities which are the too sure result of past wars, or to those undisguised projects of conquest and rapine which, since the invasion of Texas, find but too much favour among the daring population of the frontiers. Judging from the character and behaviour of the Americans most prominent in the recent aggressions on Upper Canada, they seem to have been produced mainly by the latter cause: nor does any cause appear to have secured to the insurgents of Lower Canada any very extensive aid, except that in money and munitions of war, of which the source cannot very clearly be traced. Hardly any Americans took part in the recent disturbances in Lower Canada. Last year, the outbreak was the signal for numerous public meetings in all the great cities of the frontier States, from Buffalo to New York. At these the most entire sympathy with the insurgents was openly avowed; large subscriptions were raised, and volunteers invited to join. Since the last outbreak no such manifestations have taken place: the meetings which the Nelsons and others have attempted in New York, Philadelphia, Washington, and elsewhere, have ended in complete failure; and, at the present moment, there

does not exist the slightest indication of any sympathy with the objects of the Lower Canadian insurgents, or of any desire to co-operate with them for political purposes. The danger, however, which may be apprehended from the mere desire to repeat the scenes of Texas in the Canadas, is a danger from which we cannot be secure while the disaffection of any considerable portion of the population continues to give an appearance of weakness to our Government. It is in vain to expect that such attempts can wholly be repressed by the federal Government; or that they could even be effectually counteracted by the utmost exertion of its authority, if any sudden turn of affairs should again revive a strong and general sympathy with insurrection in Canada. Without dwelling on the necessary weakness of a merely federal Government—without adverting to the difficulty which authorities, dependent for their very existence on the popular will, find in successfully resisting a general manifestation of public feeling, the impossibility which any Government would find in restraining a population like that which dwells along the thousand miles of this frontier, must be obvious to all who reflect on the difficulty of maintaining the police of a dispersed community.

Nor is this danger itself unproductive of feelings which are in their turn calculated to produce yet further mischief. The loyal people of Canada, indignant at the constant damage and terror occasioned by incursions from the opposite shore, naturally turn their hostility against the nation and the government which permit, and which they accuse even of conniving at the violation of international law and justice. Mutual recriminations are bandied about from one side to the other; and the very facilities of intercourse which keep alive the sympathy between portions of the two populations, afford at the same time occasions for the collision of angry passions and national antipathies. The violent party papers on each side, and the various bodies whose pecuniary interests a war would promote, foment the strife. A large portion of each population endeavours to incite its own government to war, and at the same time labours to produce the same result by irritating the national feelings of the rival community. Ru-

mours are diligently circulated by the Canadian press; and every friendly act of the American people or government appears to be systematically subjected to the most unfavourable construction. It is not only to be apprehended that this state of mutual suspicion and dislike may be brought to a head by acts of mutual reprisals, but that the officers of the respective governments, in despair of preserving peace, may take little care to prevent the actual commencement of war.

Though I do not believe that there ever was a time in which the specific relations of the two countries rendered it less likely that the United States would imagine that a war with England could promote their own interests, yet it cannot be doubted that the disturbed state of the Canadas is a serious drawback on the prosperity of a great part of the Union. Instead of presenting an additional field for their commercial enterprise, these Provinces, in their present state of disorder, are rather a barrier to their industrial energies. The present state of things also occasions great expense to the federal Government, which has been under the necessity of largely augmenting its small army, on account chiefly of the troubles of Canada.

Nor must we forget, that whatever assurances and proofs of amicable feeling we may receive from the Government of the United States, however strong may be the ties of mutual pacific interests that bind the two nations together, there are subjects of dispute which may produce less friendly feelings. National interests are now in question between us, of which the immediate adjustment is demanded by every motive of policy. These interests cannot be supported with the necessary vigour, while disaffection in a most important part of our North American possessions appears to give an enemy a certain means of inflicting injury and humiliation on the Empire.

But the chances of rebellion or foreign invasion are not those which I regard as either the most probable or the most injurious. The experience of the last two years suggests the occurrence of a much more speedy and disastrous result. I dread, in fact, the completion of the sad work of depopula-

tion and impoverishment which is now rapidly going on. The present evil is not merely, that improvement is stayed, and that the wealth and population of these Colonies do not increase according to the rapid scale of American progress. No accession of population takes place by immigration, and no capital is brought into the country. On the contrary, both the people and the capital seem to be quitting these distracted Provinces. From the French portion of Lower Canada there has, for a long time, been a large annual emigration of young men to the northern states of the American Union, in which they are highly valued as labourers, and gain good wages, with their savings from which they generally return to their homes in a few months or years. I do not believe that the usual amount of this emigration has been increased during the last year, except by a few persons prominently compromised in the insurrection, who have sold their property, and made up their minds to a perpetual exile; but I think there is some reason to believe that, among the class of habitual emigrants whom I have described, a great many now take up their permanent residence in the United States. But the stationary habits and local attachments of the French Canadians render it little likely that they will quit their country in great numbers. I am not aware that there is any diminution of the British population from such a cause. The employment of British capital in the Province is not materially checked in the principal branch of trade; and the main evils are the withdrawal of enterprising British capitalists from the French portion of the country, the diminished employment of the capital now in the Province, and the entire stoppage of all increase of the population by means of immigration. But from Upper Canada the withdrawal both of capital and of population has been very considerable. I have received accounts from most respectable sources of a very numerous emigration from the whole of the Western and London districts. It was said by persons who professed to have witnessed it, that considerable numbers had, for a long time, daily passed over from Amherstburgh and Sandwich to Detroit; and a most respectable informant stated, that he had seen, in one of the districts which I have men-

tioned, no less than fifteen vacant farms together on the road-side. A body of the reforming party have avowed, in the most open manner, their intention of emigrating, from political motives, and publicly invited all who might be influenced by similar feelings to join in their enterprize. For this the Mississippi Emigration Society has been formed, with the purpose of facilitating emigration from Upper Canada to the new territory of the Union, called Iowa, on the west bank of the Upper Mississippi. The prospectus of the undertaking, and the report of the deputies who were sent to examine the country in question, were given in the public press, and the advantages of the new colony strongly enforced by the reformers, and depreciatingly discussed by the friends of the Government. The number of persons who have thus emigrated is not, however, I have reason to believe, as great as it has often been represented. Many who might be disposed to take such a step, cannot sell their farms on fair terms; and though some, relying on the ease with which land is obtained in the United States, have been content to remove merely their stock and their chattels, yet there are others again who cannot at the last make the sacrifices which a forced sale would necessitate, and who continue, even under their present state of alarm, to remain in hopes of better times. In the districts which border on the St. Lawrence, little has, in fact, come of the determination to emigrate, which was loudly expressed at one time. And some even of those who actually left the country are said to have returned. But the instances which have come to my knowledge induce me to attach even more importance to the class than to the alleged number of the emigrants; and I can by no means agree with some of the dominant party, that the persons who thus leave the country are disaffected subjects, whose removal is a great advantage to loyal and peaceable men. In a country like Upper Canada, where the introduction of population and capital is above all things needful for its prosperity, and almost for its continued existence, it would be more prudent as well as just, more the interest as well as the duty of Government to remove the causes of disaffection, than to drive out the disaffected. But there is no ground for asserting

that all the reformers who have thus quitted the country are disloyal and turbulent men; nor indeed is it very clear that all of them are reformers, and that the increasing insecurity of person and property have not, without distinction of politics, driven out some of the most valuable settlers of the Province. A great impression has been lately made by the removal of one of the largest proprietors of the Province, a gentleman who arrived there not many years ago from Trinidad; who has taken no prominent, and certainly no violent part in politics; and who has now transferred himself and his property to the United States, simply because in Upper Canada he can find no secure investment for the latter, and no tranquil enjoyment of life. I heard of another English gentleman, who, having resided in the country for six or seven years, and invested large sums in bringing over a superior breed of cattle and sheep, was, while I was there, selling off his stock and implements, with a view of settling in Illinois. I was informed of an individual, who, thirty years ago, had gone into the forest with his axe on his shoulder, and, with no capital at starting, had, by dint of patient labour, acquired a farm and stock, which he had sold for 2,000*l.*, with which he went into the United States. This man, I was assured, was only a specimen of a numerous class, to whose unwearied industry the growth and prosperity of the Colony are mainly to be ascribed. They are now driven from it, on account of the present insecurity of all who, having in former times been identified in politics with some of those that subsequently appeared as prominent actors in the revolt, are regarded and treated as rebels, though they had held themselves completely aloof from all participation in schemes or acts of rebellion. Considerable alarm also exists as to the general disposition to quit the country, which was said to have been produced by some late measures of the authorities among that mild and industrious, but peculiar race of descendants of the Dutch, who inhabit the back part of the Niagara district.

Such are the lamentable results of the political and social evils which have so long agitated the Canadas; and such is their condition, that, at the present moment, we are called

on to take immediate precautions against dangers so alarming as those of rebellion, foreign invasion, and utter exhaustion and depopulation. When I look on the various and deep-rooted causes of mischief which the past inquiry has pointed out as existing in every institution, in the constitutions, and in the very composition of society throughout a great part of these Provinces, I almost shrink from the apparent presumption of grappling with these gigantic difficulties. Nor shall I attempt to do so in detail. I rely on the efficacy of reform in the constitutional system by which these Colonies are governed, for the removal of every abuse in their administration which defective institutions have engendered. If a system can be devised which shall lay in these countries the foundation of an efficient and popular government, ensure harmony, in place of collision, between the various powers of the State, and bring the influence of a vigorous public opinion to bear on every detail of public affairs, we may rely on sufficient remedies being found for the present vices of the administrative system.

The preceding pages have sufficiently pointed out the nature of those evils, to the extensive operation of which I attribute the various practical grievances, and the present unsatisfactory condition of the North American Colonies. It is not by weakening, but strengthening the influence of the people on its Government; by confining within much narrower bounds than those hitherto allotted to it, and not by extending the interference of the imperial authorities in the details of colonial affairs, that I believe that harmony is to be restored, where dissension has so long prevailed; and a regularity and vigour hitherto unknown, introduced into the administration of these Provinces. It needs no change in the principles of government, no invention of a new constitutional theory, to supply the remedy which would, in my opinion, completely remove the existing political disorders. It needs but to follow out consistently the principles of the British constitution, and introduce into the Government of these great Colonies those wise provisions, by which alone the working of the representative system can in any country be rendered harmonious and efficient. We are not now to

consider the policy of establishing representative government in the North American Colonies. That has been irrevocably done; and the experiment of depriving the people of their present constitutional power, is not to be thought of. To conduct their Government harmoniously, in accordance with its established principles, is now the business of its rulers; and I know not how it is possible to secure that harmony in any other way, than by administering the Government on those principles which have been found perfectly efficacious in Great Britain. I would not impair a single prerogative of the Crown; on the contrary, I believe that the interests of the people of these Colonies require the protection of prerogatives, which have not hitherto been exercised. But the Crown must, on the other hand, submit to the necessary consequences of representative institutions; and if it has to carry on the Government in unison with a representative body, it must consent to carry it on by means of those in whom that representative body has confidence.

In England, this principle has been so long considered an indisputable and essential part of our constitution, that it has really hardly ever been found necessary to inquire into the means by which its observance is enforced. When a ministry ceases to command a majority in Parliament on great questions of policy, its doom is immediately sealed; and it would appear to us as strange to attempt, for any time, to carry on a Government by means of ministers perpetually in a minority, as it would be to pass laws with a majority of votes against them. The ancient constitutional remedies, by impeachment and a stoppage of the supplies, have never, since the reign of William III., been brought into operation for the purpose of removing a ministry. They have never been called for, because, in fact, it has been the habit of ministers rather to anticipate the occurrence of an absolutely hostile vote, and to retire, when supported only by a bare and uncertain majority. If Colonial Legislatures have frequently stopped the supplies, if they have harassed public servants by unjust or harsh impeachments, it was because the removal of an unpopular administration could

not be effected in the Colonies by those milder indications of a want of confidence, which have always sufficed to attain the end in the mother country.

The means which have occasionally been proposed in the Colonies themselves appear to me by no means calculated to attain the desired end in the best way. These proposals indicate such a want of reliance on the willingness of the Imperial Government to acquiesce in the adoption of a better system, as, if warranted, would render an harmonious adjustment of the different powers of the State utterly hopeless. An elective executive council would not only be utterly inconsistent with monarchical government, but would really, under the nominal authority of the Crown, deprive the community of one of the great advantages of an hereditary monarchy. Every purpose of popular control might be combined with every advantage of vesting the immediate choice of advisers in the Crown, were the Colonial Governor to be instructed to secure the co-operation of the Assembly in his policy, by entrusting its administration to such men as could command a majority; and if he were given to understand that he need count on no aid from home in any difference with the Assembly, that should not directly involve the relations between the mother country and the Colony. This change might be effected by a single despatch containing such instructions; or if any legal enactment were requisite, it would only be one that would render it necessary that the official acts of the Governor should be countersigned by some public functionary. This would induce responsibility for every act of the Government, and, as a natural consequence, it would necessitate the substitution of a system of administration, by means of competent heads of departments, for the present rude machinery of an executive council. The Governor, if he wished to retain advisers not possessing the confidence of the existing Assembly, might rely on the effect of an appeal to the people, and, if unsuccessful, he might be coerced by a refusal of supplies, or his advisers might be terrified by the prospect of impeachment. But there can be no reason for apprehending that either party would enter on a contest, when each would

find its interest in the maintenance of harmony; and the abuse of the powers which each would constitutionally possess, would cease when the struggle for larger powers became unnecessary. Nor can I conceive that it would be found impossible or difficult to conduct a Colonial Government with precisely that limitation of the respective powers which has been so long and so easily maintained in Great Britain.

I know that it has been urged, that the principles which are productive of harmony and good government in the mother country, are by no means applicable to a colonial dependency. It is said that it is necessary that the administration of a colony should be carried on by persons nominated without any reference to the wishes of its people; that they have to carry into effect the policy, not of that people, but of the authorities at home; and that a colony which should name all its own administrative functionaries, would, in fact, cease to be dependent. I admit that the system which I propose would, in fact, place the internal government of the colony in the hands of the colonists themselves; and that we should thus leave to them the execution of the laws, of which we have long entrusted the making solely to them. Perfectly aware of the value of our colonial possessions, and strongly impressed with the necessity of maintaining our connection with them, I know not in what respect it can be desirable that we should interfere with their internal legislation in matters which do not affect their relations with the mother country. The matters, which so concern us, are very few. The constitution of the form of government,—the regulation of foreign relations, and of trade with the mother country, the other British Colonies, and foreign nations,—and the disposal of the public lands, are the only points on which the mother country requires a control. This control is now sufficiently secured by the authority of the Imperial Legislature; by the protection which the Colony derives from us against foreign enemies; by the beneficial terms which our laws secure to its trade; and by its share of the reciprocal benefits which would be conferred by a wise system of coloniza-

tion. A perfect subordination, on the part of the Colony, on these points, is secured by the advantages which it finds in the continuance of its connection with the Empire. It certainly is not strengthened, but greatly weakened, by a vexatious interference on the part of the Home Government, with the enactment of laws for regulating the internal concerns of the Colony, or in the selection of the persons entrusted with their execution. The colonists may not always know what laws are best for them, or which of their countrymen are the fittest for conducting their affairs; but, at least, they have a greater interest in coming to a right judgment on these points, and will take greater pains to do so than those whose welfare is very remotely and slightly affected by the good or bad legislation of these portions of the Empire. If the colonists make bad laws, and select improper persons to conduct their affairs, they will generally be the only, always the greatest, sufferers; and, like the people of other countries, they must bear the ills which they bring on themselves, until they choose to apply the remedy. But it surely cannot be the duty or the interest of Great Britain to keep a most expensive military possession of these Colonies, in order that a Governor or Secretary of State may be able to confer colonial appointments on one rather than another set of persons in the Colonies. For this is really the only question at issue. The slightest acquaintance with these Colonies proves the fallacy of the common notion, that any considerable amount of patronage in them is distributed among strangers from the mother country. Whatever inconvenience a consequent frequency of changes among the holders of office may produce, is a necessary disadvantage of free government, which will be amply compensated by the perpetual harmony which the system must produce between the people and its rulers. Nor do I fear that the character of the public servants will, in any respect, suffer from a more popular tenure of office. For I can conceive no system so calculated to fill important posts with inefficient persons as the present, in which public opinion is too little consulted in the original appointment, and in which it is almost impossible to remove those who

disappoint the expectations of their usefulness, without inflicting a kind of brand on their capacity or integrity.

I am well aware that many persons, both in the Colonies and at home, view the system which I recommend with considerable alarm, because they distrust the ulterior views of those by whom it was originally proposed, and whom they suspect of urging its adoption, with the intent only of enabling them more easily to subvert monarchical institutions, or assert the independence of the Colony. I believe, however, that the extent to which these ulterior views exist, has been greatly overrated. We must not take every rash expression of disappointment as an indication of a settled aversion to the existing constitution; and my own observation convinces me, that the predominant feeling of all the English population of the North American Colonies is that of devoted attachment to the mother country. I believe that neither the interests nor the feelings of the people are incompatible with a Colonial Government, wisely and popularly administered. The proofs, which many who are much dissatisfied with the existing administration of the Government, have given of their loyalty, are not to be denied or overlooked. The attachment constantly exhibited by the people of these Provinces towards the British Crown and Empire, has all the characteristics of a strong national feeling. They value the institutions of their country, not merely from a sense of the practical advantages which they confer, but from sentiments of national pride; and they uphold them the more, because they are accustomed to view them as marks of nationality, which distinguish them from their Republican neighbours. I do not mean to affirm that this is a feeling which no impolicy on the part of the mother country will be unable to impair; but I do most confidently regard it as one which may, if rightly appreciated, be made the link of an enduring and advantageous connection. The British people of the North American Colonies are a people on whom we may safely rely, and to whom we must not grudge power. For it is not to the individuals who have been loudest in demanding the change, that I propose to concede the responsibility of the Colonial

administration, but to the people themselves. Nor can I conceive that any people, or any considerable portion of a people, will view with dissatisfaction a change which would amount simply to this, that the Crown would henceforth consult the wishes of the people in the choice of its servants.

The important alteration in the policy of the Colonial Government which I recommend, might be wholly or in great part effected for the present by the unaided authority of the Crown; and I believe that the great mass of discontent in Upper Canada, which is not directly connected with personal irritation, arising out of the incidents of the late troubles, might be dispelled by an assurance that the government of the Colony should henceforth be carried on in conformity with the views of the majority in the Assembly. But I think that for the well-being of the Colonies, and the security of the mother country, it is necessary that such a change should be rendered more permanent than a momentary sense of the existing difficulties can ensure its being. I cannot believe that persons in power in this country will be restrained from the injudicious interference with the internal management of these Colonies, which I deprecate, while they remain the petty and divided communities which they now are. The public attention at home is distracted by the various and sometimes contrary complaints of these different contiguous Provinces. Each now urges its demands at different times, and in somewhat different forms, and the interests which each individual complainant represents as in peril, are too petty to attract the due attention of the Empire. But if these important and extensive Colonies should speak with one voice, if it were felt that every error of our colonial policy must cause a common suffering and a common discontent throughout the whole wide extent of British America, those complaints would never be provoked; because no authority would venture to run counter to the wishes of such a community, except on points absolutely involving the few imperial interests, which it is necessary to remove from the jurisdiction of Colonial legislation.

It is necessary that I should also recommend what appears to me an essential limitation on the present powers of the representative bodies in these Colonies. I consider good government not to be attainable while the present unrestricted powers of voting public money, and of managing the local expenditure of the community, are lodged in the hands of an Assembly. As long as a revenue is raised, which leaves a large surplus after the payment of the necessary expenses of the civil Government, and as long as any member of the Assembly may, without restriction, propose a vote of public money, so long will the Assembly retain in its hands the powers which it everywhere abuses, of misapplying that money. The prerogative of the Crown, which is constantly exercised in Great Britain for the real protection of the people, ought never to have been waived in the Colonies; and if the rule of the Imperial Parliament, that no money vote should be proposed without the previous consent of the Crown, were introduced into these Colonies, it might be wisely employed in protecting the public interests, now frequently sacrificed in that scramble for local appropriations, which chiefly serves to give an undue influence to particular individuals or parties.

The establishment of a good system of municipal institutions throughout these Provinces is a matter of vital importance. A general legislature, which manages the private business of every parish, in addition to the common business of the country, wields a power which no single body, however popular in its constitution, ought to have; a power which must be destructive of any constitutional balance. The true principle of limiting popular power is that apportionment of it in many different depositaries which has been adopted in all the most free and stable States of the Union. Instead of confiding the whole collection and distribution of all the revenues raised in any country for all general and local purposes to a single representative body, the power of local assessment, and the application of the funds arising from it, should be entrusted to local management. It is in vain to expect that this sacrifice of power will be voluntarily made by any representative body. The establishment of

municipal institutions for the whole country should be made a part of every colonial constitution; and the prerogative of the Crown should be constantly interposed to check any encroachment on the functions of the local bodies, until the people should become alive, as most assuredly they almost immediately would be, to the necessity of protecting their local privileges.

The establishment of a sound and general system for the management of the lands and the settlement of the Colonies, is a necessary part of any good and durable system of government. In a report contained in the Appendix to the the present, the plan which I recommend for this purpose will be fully developed.

These general principles apply, however, only to those changes in the system of government which are required in order to rectify disorders common to all the North American Colonies; but they do not in any degree go to remove those evils in the present state of Lower Canada which require the most immediate remedy. The fatal feud of origin, which is the cause of the most extensive mischief, would be aggravated at the present moment by any change which should give the majority more power than they have hitherto possessed. A plan by which it is proposed to ensure the tranquil government of Lower Canada, must include in itself the means of putting an end to the agitation of national disputes in the legislature, by settling, at once and for ever, the national character of the Province. I entertain no doubts as to the national character which must be given to Lower Canada; it must be that of the British Empire; that of the majority of the population of British America; that of the great race which must, in the lapse of no long period of time, be predominant over the whole North American Continent. Without effecting the change so rapidly or so roughly as to shock the feelings and trample on the welfare of the existing generation, it must henceforth be the first and steady purpose of the British Government to establish an English population, with English laws and language, in this Province, and to trust its government to none but a decidedly English Legislature.

It may be said that this is a hard measure to a conquered people; that the French were originally the whole, and still are the bulk of the population of Lower Canada: that the English are new comers, who have no right to demand the extinction of the nationality of a people, among whom commercial enterprize has drawn them. It may be said, that if the French are not so civilized, so energetic, or so money-making a race as that by which they are surrounded, they are an amiable, a virtuous, and a contented people, possessing all the essentials of material comfort, and not to be despised or ill-used, because they seek to enjoy what they have, without emulating the spirit of accumulation, which influences their neighbours. Their nationality is, after all, an inheritance; and they must be not too severely punished, because they have dreamed of maintaining on the distant banks of the St. Lawrence, and transmitting to their posterity, the language, the manners, and the institutions of that great nation, that for two centuries gave the tone of thought to the European Continent. If the disputes of the two races are irreconcileable, it may be urged that justice demands that the minority should be compelled to acquiesce in the supremacy of the ancient and most numerous occupants of the Province, and not pretend to force their own institutions and customs on the majority.

But before deciding which of the two races is now to be placed in the ascendant, it is but prudent to inquire which of them must ultimately prevail; for it is not wise to establish to-day that which must, after a hard struggle, be reversed to-morrow. The pretensions of the French Canadians to the exclusive possession of Lower Canada, would debar the yet larger English population of Upper Canada and the Townships from access to the great natural channel of that trade which they alone have created, and now carry on. The possession of the mouth of the St. Lawrence concerns not only those who happen to have made their settlements along the narrow line which borders it, but all who now dwell, or will hereafter dwell, in the great basin of that river. For we must not look to the present alone. The question is, by what race is it likely that the wilderness

which now covers the rich and ample regions surrounding the comparatively small and contracted districts in which the French Canadians are located, is eventually to be converted into a settled and flourishing country? If this is to be done in the British dominions, as in the rest of North America, by some speedier process than the ordinary growth of population, it must be by immigration from the English Isles, or from the United States—the countries which supply the only settlers that have entered, or will enter, the Canadas in any large numbers. This immigration can neither be debarred from a passage through Lower Canada, nor even be prevented from settling in that Province. The whole interior of the British dominions must, ere long, be filled with an English population, every year rapidly increasing its numerical superiority over the French. Is it just that the prosperity of this great majority, and of this vast tract of country, should be for ever, or even for a while, impeded by the artificial bar which the backward laws and civilization of a part, and a part only, of Lower Canada, would place between them and the ocean? Is it to be supposed that such an English population will ever submit to such a sacrifice of its interests?

I must not, however, assume it to be possible that the English Government shall adopt the course of placing or allowing any check to the influx of English immigration into Lower Canada, or any impediment to the profitable employment of that English capital which is already vested therein. The English have already in their hands the majority of the larger masses of property in the country; they have the decided superiority of intelligence on their side; they have the certainty that colonization must swell their numbers to a majority; and they belong to the race which wields the Imperial Government, and predominates on the American Continent. If we now leave them in a minority, they will never abandon the assurance of being a majority hereafter, and never cease to continue the present contest with all the fierceness with which it now rages. In such a contest they will rely on the sympathy of their countrymen at home; and if that is denied them, they feel very confident of being able

to awaken the sympathy of their neighbours of kindred origin. They feel that if the British Government intends to maintain its hold of the Canadas, it can rely on the English population alone; that if it abandons its colonial possessions, they must become a portion of that great Union which will speedily send forth its swarms of settlers, and, by force of numbers and activity, quickly master every other race. The French Canadians, on the other hand, are but the remains of an ancient colonization, and are and ever must be isolated in the midst of an Anglo-Saxon world. Whatever may happen, whatever government shall be established over them, British or American, they can see no hope for their nationality. They can only sever themselves from the British Empire by waiting till some general cause of dissatisfaction alienates them, together with the surrounding colonies, and leaves them part of an English confederacy; or, if they are able, by effecting a separation singly, and so either merging in the American Union, or keeping up for a few years a wretched semblance of feeble independence, which would expose them more than ever to the intrusion of the surrounding population. I am far from wishing to encourage indiscriminately these pretensions to superiority on the part of any particular race; but while the greater part of every portion of the American Continent is still uncleared and unoccupied, and while the English exhibit such constant and marked activity in colonization, so long will it be idle to imagine that there is any portion of that Continent into which that race will not penetrate, or in which, when it has penetrated, it will not predominate. It is but a question of time and mode; it is but to determine whether the small number of French who now inhabit Lower Canada shall be made English, under a Government which can protect them, or whether the process shall be delayed until a much larger number shall have to undergo, at the rude hands of its uncontrolled rivals, the extinction of a nationality strengthened and embittered by continuance.

And is this French Canadian nationality one which, for the good merely of that people, we ought to strive to perpetuate, even if it were possible? I know of no national dis-

tinctions marking and continuing a more hopeless inferiority. The language, the laws, the character of the North American Continent are English; and every race but the English (I apply this to all who speak the English language) appears there in a condition of inferiority. It is to elevate them from that inferiority that I desire to give to the Canadians our English character. I desire it for the sake of the educated classes, whom the distinction of language and manners keeps apart from the great Empire to which they belong. At the best, the fate of the educated and aspiring colonist is, at present, one of little hope, and little activity; but the French Canadian is cast still further into the shade, by a language and habits foreign to those of the Imperial Government. A spirit of exclusion has closed the higher professions on the educated classes of the French Canadians, more perhaps than was absolutely necessary; but it is impossible for the utmost liberality on the part of the British Government to give an equal position in the general competition of its vast population to those who speak a foreign language. I desire the amalgamation still more for the sake of the humbler classes. Their present state of rude and equal plenty is fast deteriorating under the pressure of population in the narrow limits to which they are confined. If they attempt to better their condition, by extending themselves over the neighbouring country, they will necessarily get more and more mingled with an English population: if they prefer remaining stationary, the greater part of them must be labourers in the employ of English capitalists. In either case it would appear, that the great mass of the French Canadians are doomed, in some measure, to occupy an inferior position, and to be dependent on the English for employment. The evils of poverty and dependence would merely be aggravated in a ten-fold degree, by a spirit of jealous and resentful nationality, which should separate the working class of the community from the possessors of wealth and employers of labour.

I will not here enter into the question of the effect of the mode of life and division of property among the French Canadians on the happiness of the people. I will admit,

for the moment, that it is as productive of well-being as its admirers assert. But, be it good or bad, the period in which it is practicable, is past; for there is not enough unoccupied land left in that portion of the country in which English are not already settled, to admit of the present French population possessing farms sufficient to supply them with their present means of comfort, under their system of husbandry. No population has increased by mere births so rapidly as that of the French Canadians has since the conquest. At that period their number was estimated at 60,000; it is now supposed to amount to more than seven times as many. There has been no proportional increase of cultivation, or of produce from the land already under cultivation; and the increased population has been in a great measure provided for by mere continued subdivision of estates. In a Report from a Committee of the Assembly in 1826, of which Mr. Andrew Steuart was chairman, it is stated, that since 1784 the population of the seignories had quadrupled, while the number of cattle had only doubled, and the quantity of land in cultivation had only increased one-third. Complaints of distress are constant, and the deterioration of the condition of a great part of the population admitted on all hands. A people so circumstanced must alter their mode of life. If they wish to maintain the same kind of rude, but well-provided agricultural existence, it must be by removing into those parts of the country in which the English are settled; or if they cling to their present residence, they can only obtain a livelihood by deserting their present employment, and working for wages on farms, or in commercial occupations under English capitalists. But their present proprietary and inactive condition is one which no political arrangements can perpetuate. Were the French Canadians to be guarded from the influx of any other population, their condition in a few years would be similar to that of the poorest of the Irish peasantry.

There can hardly be conceived a nationality more destitute of all that can invigorate and elevate a people, than that which is exhibited by the descendants of the French in Lower Canada, owing to their retaining their peculiar lan-

guage and manners. They are a people with no history, and no literature. The literature of England is written in a language which is not theirs; and the only literature which their language renders familiar to them, is that of a nation from which they have been separated by eighty years of a foreign rule, and still more by those changes which the Revolution and its consequences have wrought in the whole political, moral, and social state of France. Yet it is on a people whom recent history, manners, and modes of thought, so entirely separate from them, that the French Canadians are wholly dependent for almost all the instruction and amusement derived from books: it is on this essentially foreign literature, which is conversant about events, opinions, and habits of life, perfectly strange and unintelligible to them, that they are compelled to be dependent. Their newspapers are mostly written by natives of France, who have either come to try their fortunes in the Province, or been brought into it by the party leaders, in order to supply the dearth of literary talent available for the political press. In the same way their nationality operates to deprive them of the enjoyments and civilizing influence of the arts. Though descended from the people in the world that most generally love, and have most successfully cultivated the drama—though living on a continent, in which almost every town, great or small, has an English theatre, the French population of Lower Canada, cut off from every people that speaks its own language, can support no national stage.

In these circumstances, I should be indeed surprised if the more reflecting part of the French Canadians entertained at present any hope of continuing to preserve their nationality. Much as they struggle against it, it is obvious that the process of assimilation to English habits is already commencing. The English language is gaining ground, as the language of the rich and of the employers of labour naturally will. It appeared by some of the few returns, which had been received by the Commissioner of the Inquiry into the state of Education, that there are about ten times the number of French children in Quebec learning English, as compared with the English children who learn French.

A considerable time must, of course, elapse before the change of a language can spread over a whole people; and justice and policy alike require, that while the people continue to use the French language, their Government should take no such means to force the English language upon them as would, in fact, deprive the great mass of the community of the protection of the laws. But, I repeat that the alteration of the character of the Province ought to be immediately entered on, and firmly, though cautiously, followed up; that in any plan, which may be adopted for the future management of Lower Canada, the first object ought to be that of making it an English Province; and that, with this end in view, the ascendancy should never again be placed in any hands but those of an English population. Indeed, at the present moment this is obviously necessary: in the state of mind in which I have described the French Canadian population, as not only now being, but as likely for a long while to remain, the trusting them with an entire control over this Province, would be, in fact, only facilitating a rebellion. Lower Canada must be governed now, as it must be hereafter, by an English population: and thus the policy which the necessities of the moment force on us, is in accordance with that suggested by a comprehensive view of the future and permanent improvement of the Province.

The greater part of the plans which have been proposed for the future government of Lower Canada, suggest either as a lasting or as a temporary and intermediate scheme, that the Government of that Province should be constituted or an entirely despotic footing, or on one that would vest it entirely in the hands of the British minority. It is proposed either to place the legislative authority in a Governor, with a Council formed of the heads of the British party, or to contrive some scheme of representation, by which a minority, with the forms of representation, is to deprive a majority of all voice in the management of its own affairs.

The maintenance of an absolute form of government on any part of the North American Continent, can never continue for any long time, without exciting a general feeling in the United States against a power of which the existence

is secured by means so odious to the people; and as I rate the preservation of the present general sympathy of the United States with the policy of our Government in Lower Canada as a matter of the greatest importance, I should be sorry that the feeling should be changed for one which, if prevalent among that people, must extend over the surrounding Provinces. The influence of such an opinion would not only act very strongly on the entire French population, and keep up among them a sense of injury, and a determination of resistance to the Government, but would lead to just as great discontent among the English. In their present angry state of feeling, they might tolerate, for a while, any arrangement that would give them a triumph over the French; but I have greatly misunderstood their character, if they would long bear a Government in which they had no direct voice. Nor would their jealousy be obviated by the selection of a Council from the persons supposed to have their confidence. It is not easy to know who really possess that confidence; and I suspect that there would be no surer way of depriving a man of influence over them, than by treating him as their representative, without their consent.

The experience which we have had of a Government irresponsible to the people in these Colonies, does not justify us in believing that it would be very well administered. And the great reforms in the institutions of the Province which must be made, ere Lower Canada can ever be a well-ordered and flourishing community, can be effected by no Legislature which does not represent a great mass of public opinion.

But the great objection to any government of an absolute kind is, that it is palpably of a temporary nature; that there is no reason to believe that its influence during the few years that it would be permitted to last, would leave the people at all more fit to manage themselves; that, on the contrary, being a mere temporary institution, it would be deficient in that stability which is the great requisite of government in times of disorder. There is every reason to believe that a professedly irresponsible government would be the weakest that could be devised. Every one of its acts

would be discussed, not in the Colony, but in England, on utterly incomplete and incorrect information, and run the chance of being disallowed without being understood. The most violent outcry that could be raised by persons looking at them through the medium of English and constitutional notions, or by those who might hope thereby to promote the sinister purposes of faction at home, would be constantly directed against them. Such consequences as these are inevitable. The people of England are not accustomed to rely on the honest and discreet exercise of absolute power; and if they permit a despotism to be established in their Colonies, they feel bound, when their attention happens to be directed towards them, to watch its acts with vigilance. The Governor and Council would feel this responsibility in all their acts: unless they happened to be men of much more than ordinary nerve and earnestness, they would shape their policy so as merely to avoid giving a handle to attacks; and their measures would exhibit all that uncertainty and weakness which such a motive is sure to produce.

With respect to every one of those plans which propose to make the English minority an electoral majority by means of new and strange modes of voting or unfair divisions of the country, I shall only say, that if the Canadians are to be deprived of representative government, it would be better to do it in a straight-forward way than to attempt to establish a permanent system of government on the basis of what all mankind would regard as mere electoral frauds. It is not in North America that men can be cheated by an unreal semblance of representative government, or persuaded that they are out-voted, when, in fact, they are disfranchised.

The only power that can be effectual at once in coercing the present disaffection, and hereafter obliterating the nationality of the French Canadians, is that of a numerical majority of a loyal and English population; and the only stable government will be one more popular than any that has hitherto existed in the North American Colonies. The influence of perfectly equal and popular institutions in effacing distinctions of race without disorder or oppression, and with little more than the ordinary animosities of party

in a free country, is memorably exemplified in the history of the state of Louisiana, the laws and population of which were French at the time of its cession to the American Union. And the eminent success of the policy adopted with regard to that State, points out to us the means by which a similar result can be effected in Lower Canada.

The English of Lower Canada, who seem to infer the means from the result, entertain and circulate the most extraordinary conceptions of the course really pursued in this instance. On the single fact, that in the constitution of Louisiana it is specified that the public acts of the State shall be "in the language in which the constitution of the United States is written," it has been inferred that the federal Government in the most violent manner swept away the use of the French language and laws, and subjected the French population to some peculiar disabilities which deprived them, in fact, of an equal voice in the government of their State. Nothing can be more contrary to the fact. Louisiana, on its first cession was governed as a "district;" its public officers were appointed by the federal Government: and, as was natural under the circumstances of the case, they were natives of the old States of the Union. In 1812, the district, having the requisite population, was admitted into the Union as a State, and admitted on precisely the same terms that any other population would have or has been. The constitution was framed so as to give precisely the same power to the majority as is enjoyed in the other States of the Union. No alteration was then made in the laws. The proof of this is afforded by a fact familiar to every person moderately acquainted with the jurisprudence of the age. The code, which is the glory of Louisiana and Mr. Livingston, was subsequently undertaken under the auspices of the legislature, in consequence of the confusion daily arising in the administration of the English and French system of law in the same courts. This change of laws, effected in the manner most consonant to the largest views of legislation, was not forced on the legislature and people of the State by an external authority, but was the suggestion of their own political wisdom. Louisiana is not the only

State in the Union which has been troubled by the existence of conflicting systems of law. The State of New York, till within a few years, suffered under the same evil, which it remedied in the same way, by employing a commission of its ablest lawyers to digest both systems of law into a common code. The contending populations of Lower Canada may well imitate these examples; and if, instead of endeavouring to force their respective laws upon each other, they would attempt an amalgamation of the two systems into one, adopting what is really best in both, the result would be creditable to the Province.

Every provision was made in Louisiana for securing to both races a perfectly equal participation in all the benefits of the Government. It is true that the intention of the federal Government to encourage the use of the English language was evinced by the provision of the constitution with respect to the language of the records; but those who will reflect how very few people read such documents, and how very recently it is that the English language has become the language of the law in this country, will see that such a provision could have little practical effect. In all cases in which convenience requires it, the different parties use their respective languages in the courts of justice, and in both branches of the legislature. In every judicial proceeding, all documents which pass between the parties are required to be in both languages, and the laws are published in both languages. Indeed the equality of the two languages is preserved in the legislature by a very singular contrivance; the French and English members speak their respective languages, and an interpreter, as I was informed, after every speech, explains its purport in the other language.

For a long time the distinction between the two races was the cause of great jealousy. The Americans crowded into the State in order to avail themselves of its great natural resources, and its unequalled commercial advantages; there, as everywhere else on that continent, their energy and habits of business gradually drew the greater part of the commercial business of the country into their hands; and

though, I believe, a few of the richest merchants, and most of the owners of plantations, are French, the English form the bulk of the wealthier classes. Year after year their numbers have become greater, and it is now generally supposed that they constitute the numerical majority. It may be imagined that the French have borne this with a good deal of dissatisfaction; but as the advantages gained by the English were entirely the result, not of favour, but of their superiority in a perfectly free competition, this jealousy could excite no murmurs against the Government. The competition made the two races enemies at first, but it has gradually stirred the emulation of the less active race, and made them rivals. The jealousies in the city of New Orleans were so great at one time, that the Legislature of the State, at the desire of the English, who complained of the inertness of the French, formed separate municipalities for the French and English parts of the city. These two municipalities are now actuated by a spirit of rivalry, and each undertakes great public works for the ornament and convenience of their respective quarters.

The distinction still lasts, and still causes a good deal of division; the society of each race is said to be in some measure distinct, but not by any means hostile; and some accounts represent the social mixture to be very great. All accounts represent the division of the races as becoming gradually less and less marked; their newspapers are printed in the two languages on opposite pages; their local politics are entirely merged in those of the Union; and instead of discovering in their papers any vestiges of a quarrel of races, they are found to contain a repetition of the same party recriminations and party arguments, which abound in all other parts of the federation.

The explanation of this amalgamation is obvious. The French of Louisiana, when they were formed into a state, in which they were a majority, were incorporated into a great nation, of which they constituted an extremely small part. The eye of every ambitious man turned naturally to the great centre of federal affairs, and the high prizes of federal ambition. The tone of politics was taken from those by whose

hands its highest powers were wielded ; the legislation and government of Louisiana were from the first insignificant, compared with the interests involved in the discussions at Washington. It became the object of every aspiring man to merge his French, and adopt completely an American nationality. What was the interest of individuals, was also the interest of the State. It was its policy to be represented by those who would acquire weight in the councils of the federation. To speak only a language foreign to that of the United States, was consequently a disqualification for a candidate for the posts of either senator or representative ; the French qualified themselves by learning English, or submitted to the superior advantages of their English competitors. The representation of Louisiana in Congress is now entirely English, while each of the federal parties in the State conciliates the French feeling, by putting up a candidate of that race. But the result is, that the Union is never disturbed by the quarrels of these races ; and the French language and manners bid fair, in no long time, to follow their laws, and pass away like the Dutch peculiarities of New York.

It is only by the same means, — by a popular government, in which an English majority shall permanently predominate, that Lower Canada, if a remedy for its disorders be not too long delayed, can be tranquilly ruled.

On these grounds, I believe that no permanent or efficient remedy can be devised for the disorders of Lower Canada, except a fusion of the Government in that of one or more of the surrounding Provinces ; and as I am of opinion that the full establishment of responsible government can only be permanently secured by giving these Colonies an increased importance in the politics of the Empire, I find in union the only means of remedying at once and completely the two prominent causes of their present unsatisfactory condition.

Two kinds of union have been proposed, federal and legislative. By the first, the separate legislature of each Province would be preserved in its present form, and retain almost all its present attributes of internal legislation ; the federal legislature exercising no power, save in those matters

of general concern, which may have been expressly ceded to it by the constituent Provinces. A legislative union would imply a complete incorporation of the Provinces included in it under one legislature, exercising universal and sole legislative authority over all of them, in exactly the same manner as the Parliament legislates alone for the whole of the British Isles.

On my first arrival in Canada, I was strongly inclined to the project of a federal union, and it was with such a plan in view, that I discussed a general measure for the government of the Colonies, with the deputations from the Lower Provinces, and with various leading individuals and public bodies in both the Canadas. I was fully aware that it might be objected that a federal union would, in many cases, produce a weak and rather cumbrous government; that a Colonial federation must have, in fact, little legitimate authority or business, the greater part of the ordinary functions of a federation falling within the scope of the imperial legislature and executive; and that the main inducement to federation, which is the necessity of conciliating the pretensions of independent states to the maintenance of their own sovereignty, could not exist in the case of Colonial dependencies, liable to be moulded according to the pleasure of the supreme authority at home. In the course of the discussions which I have mentioned, I became aware also of great practical difficulties in any plan of federal government, particularly those that must arise in the management of the general revenues, which would in such a plan have to be again distributed among the Provinces. But I had still more strongly impressed on me the great advantages of an united Government; and I was gratified by finding the leading minds of the various Colonies strongly and generally inclined to a scheme that would elevate their countries into something like a national existence. I thought that it would be the tendency of a federation sanctioned and consolidated by a monarchical Government gradually to become a complete legislative union; and that thus, while conciliating the French of Lower Canada, by leaving them the government of their own Province and their own internal legislation, I might provide

for the protection of British interests by the general government, and for the gradual transition of the Provinces into an united and homogeneous community.

But the period of gradual transition is past in Lower Canada. In the present state of feeling among the French population, I cannot doubt that any power which they might possess would be used against the policy and the very existence of any form of British government. I cannot doubt that any French Assembly that shall again meet in Lower Canada will use whatever power, be it more or less limited, it may have, to obstruct the Government, and undo whatever has been done by it. Time, and the honest co-operation of the various parties, would be required to aid the action of a federal constitution ; and time is not allowed, in the present state of Lower Canada, nor co-operation to be expected from a legislature, of which the majority shall represent its French inhabitants. I believe that tranquillity can only be restored by subjecting the Province to the vigorous rule of an English majority ; and that the only efficacious government would be that formed by a legislative union.

If the population of Upper Canada is rightly estimated at 400,000, the English inhabitants of Lower Canada at 150,000, and the French at 450,000, the union of the two Provinces would not only give a clear English majority, but one which would be increased every year by the influence of English emigration ; and I have little doubt that the French, when once placed, by the legitimate course of events and the working of natural causes, in a minority, would abandon their vain hopes of nationality. I do not mean that they would immediately give up their present animosities, or instantly renounce the hope of attaining their end by violent means. But the experience of the two Unions in the British Isles may teach us how effectually the strong arm of a popular legislature would compel the obedience of the refractory population; and the hopelessness of success would gradually subdue the existing animosities, and incline the French Canadian population to acquiesce in their new state of political existence. I certainly should not like to subject the French Canadians to the rule of the identical English minority with

which they have so long been contending ; but from a majority, emanating from so much more extended a source, I do not think that they would have any oppression or injustice to fear; and in this case, the far greater part of the majority never having been brought into previous collision, would regard them with no animosity that could warp their natural sense of equity. The endowments of the Catholic church in Lower Canada, and the existence of all its present laws, until altered by the united Legislature, might be secured by stipulations similar to those adopted in the Union between England and Scotland. I do not think that the subsequent history of British legislation need incline us to believe, that the nation which has a majority in a popular legislature, is likely to use its power to tamper very hastily with the laws of the people to which it is united.

The union of the two Provinces would secure to Upper Canada the present great objects of its desire. All disputes as to the division or amount of the revenue would cease. The surplus revenue of Lower Canada would supply the deficiency of that part of the Upper Province ; and the Province thus placed beyond the possibility of locally jobbing the surplus revenue, which it cannot reduce, would, I think, gain as much by the arrangement as the Province, which would thus find a means of paying the interest of its debt. Indeed it would be by no means unjust to place this burthen on Lower Canada, inasmuch as the great public works for which the debt was contracted, are as much the concern of one Province as of the other. Nor is it to be supposed that, whatever may have been the mismanagement, in which a great part of the debt originated, the canals of Upper Canada will always be a source of loss, instead of profit. The completion of the projected and necessary line of public works would be promoted by such an union. The access to the sea would be secured to Upper Canada. The saving of public money, which would be ensured by the union of various establishments in the two Provinces, would supply the means of conducting the general Government on a more efficient scale than it has yet been carried on. And the responsibility of the executive would be secured by the increased

weight which the representative body of the United Province would bring to bear on the Imperial Government and Legislature.

But while I convince myself that such desirable ends would be secured by the Legislative Union of the two Provinces, I am inclined to go further, and inquire whether all these objects would not more surely be attained, by extending this Legislative Union over all the British Provinces in North America; and whether the advantages which I anticipate for two of them, might not, and should not in justice be extended over all. Such an union would at once decisively settle the question of races; it would enable all the Provinces to co-operate for all common purposes; and, above all, it would form a great and powerful people, possessing the means of securing good and responsible government for itself, and which, under the protection of the British Empire, might in some measure counterbalance the preponderant and increasing influence of the United States on the American continent. I do not anticipate that a Colonial Legislature thus strong and thus self-governing, would desire to abandon the connection with Great Britain. On the contrary, I believe that the practical relief from undue interference, which would be the result of such a change, would strengthen the present bond of feelings and interests; and that the connection would only become more durable and advantageous, by having more of equality, of freedom, and of local independence. But at any rate, our first duty is to secure the well-being of our colonial countrymen; and if in the hidden decrees of that wisdom by which this world is ruled, it is written, that these countries are not for ever to remain portions of the Empire, we owe it to our honour to take good care, that, when they separate from us, they should not be the only countries on the American continent in which the Anglo-Saxon race shall be found unfit to govern itself.

I am, in truth, so far from believing that the increased power and weight that would be given to these Colonies by union would endanger their connection with the Empire, that I look to it as the only means of fostering such a national feeling throughout them as would effectually counterbalance whatever tendencies may now exist towards separation. No

large community of free and intelligent men will long feel contented with a political system which places them, because it places their country, in a position of inferiority to their neighbours. The colonist of Great Britain is linked, it is true, to a mighty Empire; and the glories of its history, the visible signs of its present power, and the civilization of its people, are calculated to raise and gratify his national pride. But he feels, also, that his link to that Empire is one of remote dependence; he catches but passing and inadequate glimpses of its power and prosperity; he knows that in its government he and his own countrymen have no voice. While his neighbour on the other side of the frontier assumes importance, from the notion that his vote exercises some influence on the councils, and that he himself has some share in the onward progress of a mighty nation, the colonist feels the deadening influence of the narrow and subordinate community to which he belongs. In his own, and in the surrounding Colonies, he finds petty objects occupying petty, stationary, and divided societies; and it is only when the chances of an uncertain and tardy communication bring intelligence of what has passed a month before on the other side of the Atlantic, that he is reminded of the Empire with which he is connected. But the influence of the United States surrounds him on every side, and is for ever present. It extends itself as population augments and intercourse increases; it penetrates every portion of the continent into which the restless spirit of American speculation impels the settler or the trader; it is felt in all the transactions of commerce, from the important operations of the monetary system down to the minor details of ordinary traffic; it stamps, on all the habits and opinions of the surrounding countries, the common characteristics of the thoughts, feelings, and customs of the American people. Such is necessarily the influence which a great nation exercises on the small communities which surround it. Its thoughts and manners subjugate them, even when nominally independent of its authority. If we wish to prevent the extension of this influence, it can only be done by raising up for the North American colonist some nationality of his own; by elevating these small and unimportant communities into

a society having some objects of a national importance; and by thus giving their inhabitants a country which they will be unwilling to see absorbed even into one more powerful.

While I believe that the establishment of a comprehensive system of Government, and of an effectual union between the different Provinces, would produce this important effect on the general feelings of their inhabitants, I am inclined to attach very great importance to the influence which it would have in giving greater scope and satisfaction to the legitimate ambition of the most active and prominent persons to be found in them. As long as personal ambition is inherent in human nature, and as long as the morality of every free and civilized community encourages its aspirations, it is one great business of a wise Government to provide for its legitimate development. If, as it is commonly asserted, the disorders of these Colonies have, in great measure, been fomented by the influence of designing and ambitious individuals, this evil will best be remedied by allowing such a scope for the desires of such men as shall direct their ambition into the legitimate chance of furthering, and not of thwarting, their Government. By creating high prizes in a general and responsible Government, we shall immediately afford the means of pacifying the turbulent ambitions, and of employing in worthy and noble occupations the talents which now are only exerted to foment disorder. We must remove from these Colonies the cause to which the sagacity of Adam Smith traced the alienation of the Provinces which now form the United States: we must provide some scope for what he calls "the importance" of the leading men in the Colony, beyond what he forcibly terms the present "petty prizes of the paltry raffle of colonial faction." A general Legislative Union would elevate and gratify the hopes of able and aspiring men. They would no longer look with envy and wonder at the great arena of the bordering federation, but see the means of satisfying every legitimate ambition in the high offices of the Judicature and Executive Government of their own Union.

Nor would an union of the various Provinces be less advantageous in facilitating a co-operation for various common

purposes, of which the want is now very seriously felt. There is hardly a department of the business of Government which does not require, or would not be better performed, by being carried on under the superintendence of a general Government; and when we consider the political and commercial interests that are common to these Provinces, it appears difficult to account for their having ever been divided into separate governments, since they have all been portions of the same Empire, subject to the same Crown, governed by nearly the same laws and constitutional customs, inhabited, with one exception, by the same race, contiguous and immediately adjacent to each other, and bounded along their whole frontier by the territories of the same powerful and rival State. It would appear that every motive that has induced the union of various Provinces into a single State, exists for the consolidation of these Colonies under a common legislature and executive. They have the same common relation to the mother country; the same relation to foreign nations. When one is at war, the others are at war; and the hostilities that are caused by an attack on one, must seriously compromise the welfare of the rest. Thus the dispute between Great Britain and the State of Maine, appears immediately to involve the interests of none of these Colonies, except New Brunswick or Lower Canada, to one of which the territory claimed by us must belong. But if a war were to commence on this ground, it is most probable that the American Government would select Upper Canada as the most vulnerable, or, at any rate, as the easiest point of attack. A dispute respecting the fisheries of Nova Scotia would involve precisely the same consequences. An union for common defence against foreign enemies is the natural bond of connection that holds together the great communities of the world; and between no parts of any Kingdom or State is the necessity for such an union more obvious than between the whole of these Colonies.

Their internal relations furnish quite as strong motives for union. The Post Office is at the present moment under the management of the same imperial establishment. If, in compliance with the reasonable demands of the Colonies,

the regulation of a matter so entirely of internal concern, and the revenue derived from it, were placed under the control of the Provincial Legislatures, it would still be advisable that the management of the Post Office throughout the whole of British North America should be conducted by one general establishment. In the same way, so great is the influence on the other Provinces of the arrangements adopted with respect to the disposal of public lands and colonization in any one, that it is absolutely essential that this department of Government should be conducted on one system, and by one authority. The necessity of common fiscal regulations is strongly felt by all the Colonies; and a common custom-house establishment would relieve them from the hindrances to their trade, caused by the duties now levied on all commercial intercourse between them. The monetary and banking system of all is subject to the same influences, and ought to be regulated by the same laws. The establishment of a common colonial currency is very generally desired. Indeed, I know of no department of Government that would not greatly gain, both in economy and efficiency, by being placed under a common management. I should not propose, at first, to alter the existing public establishments of the different Provinces, because the necessary changes had better be left to be made by the united Government; and the judicial establishments should certainly not be disturbed until the future legislature shall provide for their re-construction on an uniform and permanent footing. But even in the administration of justice, an union would immediately supply a remedy for one of the most serious wants under which all the Provinces labour, by facilitating the formation of a general appellate tribunal for all the North American Colonies.

But the interests which are already in common between all these Provinces are small in comparison with those which the consequences of such an union might, and I think I may say assuredly would, call into existence; and the great discoveries of modern art, which have throughout the world, and nowhere more than in America, entirely altered the character and the channels of communication

between distant countries, will bring all the North American Colonies into constant and speedy intercourse with each other. The success of the great experiment of steam navigation across the Atlantic, opens a prospect of a speedy communication with Europe, which will materially affect the future state of all these Provinces. In a Despatch which arrived in Canada after my departure, the Secretary of State informed me of the determination of Your Majesty's Government to establish a steam communication between Great Britain and Halifax; and instructed me to turn my attention to the formation of a road between that port and Quebec. It would, indeed, have given me sincere satisfaction, had I remained in the Province, to promote, by any means in my power, so highly desirable an object; and the removal of the usual restrictions on my authority as Governor General, having given me the means of effectually acting in concert with the various Provincial Governments, I might have been able to make some progress in the work. But I cannot point out more strikingly the evils of the present want of a general government for these Provinces, than by adverting to the difficulty which would practically occur, under the previous and present arrangements of both Executive and Legislative authorities in the various Provinces, in attempting to carry such a plan into effect. For the various Colonies have no more means of concerting such common works with each other, than with the neighbouring States of the Union. They stand to one another in the position of foreign States, and of foreign States without diplomatic relations. The Governors may correspond with each other: the Legislatures may enact laws, carrying the common purposes into effect in their respective jurisdictions; but there is no means by which the various details may speedily and satisfactorily be settled with the concurrence of the different parties. And, in this instance, it must be recollected that the communication and the final settlement would have to be made between, not two, but several of the Provinces. The road would run through three of them; and Upper Canada, into which it would not enter, would, in fact, be more interested in the completion of such a work than any

even of the Provinces through which it would pass. The Colonies, indeed, have no common centre in which the arrangement could be made, except in the Colonial Office at home; and the details of such a plan would have to be discussed just where the interests of all parties would have the least means of being fairly and fully represented, and where the minute local knowledge necessary for such a matter would be least likely to be found.

The completion of any satisfactory communication between Halifax and Quebec, would, in fact, produce relations between these Provinces, that would render a general union absolutely necessary. Several surveys have proved that a railroad would be perfectly practicable the whole way. Indeed, in North America, the expense and difficulty of making a railroad, bears by no means the excessive proportion to those of a common road that it does in Europe. It appears to be a general opinion in the United States, that the severe snows and frosts of that continent very slightly impede, and do not prevent, the travelling on railroads; and if I am rightly informed, the Utica railroad, in the northern part of the State of New York, is used throughout the winter. If this opinion be correct, the formation of a railroad from Halifax to Quebec would entirely alter some of the distinguishing characteristics of the Canadas. Instead of being shut out from all direct intercourse with England during half the year, they would possess a far more certain and speedy communication throughout the winter than they now possess in summer. The passage from Ireland to Quebec would be a matter of ten or twelve days, and Halifax would be the great port by which a large portion of the trade, and all the conveyance of passengers to the whole of British North America, would be carried on. But even supposing these brilliant prospects to be such as we could not reckon on seeing realized, I may assume that it is not intended to make this road without a well-founded belief that it will become an important channel of communication between the Upper and Lower Provinces. In either case, would not the maintenance of such a road, and the mode in which the Government is administered in the different Provinces, be matters of common interest to all? If the great

natural channel of the St. Lawrence gives all the people who dwell in any part of its basin such an interest in the government of the whole as renders it wise to incorporate the two Canadas, the artificial work which would, in fact, supersede the lower part of the St. Lawrence, as the outlet of a great part of the Canadian trade, and would make Halifax, in a great measure, an outport to Quebec, would surely in the same way render it advisable that the incorporation should be extended to Provinces through which such a road would pass.

With respect to the two smaller Colonies of Prince Edward's Island and Newfoundland, I am of opinion, that not only would most of the reasons which I have given for an union of the others, apply to them, but that their smallness makes it absolutely necessary, as the only means of securing any proper attention to their interests, and investing them with that consideration, the deficiency of which they have so much reason to lament in all the disputes which yearly occur between them and the citizens of the United States, with regard to the encroachments made by the latter on their coasts and fisheries.

The views on which I found my support of a comprehensive union have long been entertained by many persons in these Colonies, whose opinion is entitled to the highest consideration. I cannot, however, refrain from mentioning the sanction of such views by one whose authority Your Majesty will, I may venture to say, receive with the utmost respect. Mr. Sewell, the late Chief Justice of Quebec, laid before me an autograph letter addressed to himself by Your Majesty's illustrious and lamented father, in which his Royal Highness was pleased to express his approbation of a similar plan then proposed by that gentleman. No one better understood the interests and character of these Colonies than his Royal Highness; and it is with peculiar satisfaction, therefore, that I submit to Your Majesty's perusal the important document which contains his Royal Highness's opinion in favour of such a scheme.

" My dear Sewell, Kensington Palace, 30 Nov. 1814.

" I have this day had the pleasure of receiving your note

of yesterday, with its interesting enclosure: nothing can be better arranged than the whole thing is, or more perfectly I cannot wish; and, when I see an opening, it is fully my intention to hint the matter to Lord Bathurst, and put the paper into his hands, without, however, telling him from whom I have it, though I shall urge him to have some conversation with you relative to it. Permit me, however, just to ask you whether it was not an oversight in you to state that there are *five* Houses of Assembly in the British Colonies in North America? for if I am not under an error, there are *six*, viz. Upper and Lower Canada, Nova Scotia and New Brunswick, the Islands of Prince Edward and Cape Breton. Allow me also to beg of you to put down the proportions in which you think the thirty members of the representative Assembly ought to be furnished by each Province; and, finally, to suggest whether you would not think two Lieutenant Governors, with two Executive Councils, sufficient for the Executive Government of the whole, viz. one for the two Canadas, and one for Nova Scotia and New Brunswick, comprehending the small dependencies of Cape Breton and Prince Edward's Island; the former to reside at Montreal, and the latter at whichever of the two situations may be considered most central for the two Provinces, whether Annapolis Royal or Windsor. But at all events, should you even consider four Executive Governments and four Executive Councils requisite, I presume there cannot be a question of the expediency of comprehending the two small islands in the Gulf of St. Lawrence with Nova Scotia.

"Believe me ever to remain, with the most friendly regard,
"My dear Sewell, yours faithfully,
(Signed) "*Edward.*"

I know of but one difficulty in the way of such an union; and that arises from the disinclination which some of the Lower Provinces might feel to the transference of powers from their present Legislatures to that of the Union. The objection to this would arise principally, I imagine, from their not liking to give up the immediate control which they now have over the funds by which their local expenditure

is defrayed. I have given such a view of the evils of this system, that I cannot be expected to admit that an interference with it would be an objection to my plan. I think, however, that the Provinces would have a right to complain, if these powers of local management, and of distributing funds for local purposes, were taken from Provincial Assemblies only to be placed in the yet more objectionable hands of a general legislature. Every precaution should, in my opinion, be taken to prevent such a power, by any possibility, falling into the hands of the Legislature of the Union. In order to prevent that, I would prefer that the Provincial Assemblies should be retained, with merely municipal powers. But it would be far better, in point both of efficiency and of economy, that this power should be entrusted to the municipal bodies of much smaller districts; and the formation of such bodies would, in my opinion, be an essential part of any durable and complete Union.

With such views, I should without hesitation recommend the immediate adoption of a general legislative union of all the British Provinces in North America, if the regular course of Government were suspended or perilled in the Lower Provinces, and the necessity of the immediate adoption of a plan for their government, without reference to them, a matter of urgency; or if it were possible to delay the adoption of a measure with respect to the Canadas until the project of an union could have been referred to the Legislatures of the Lower Provinces. But the state of the Lower Province, though it justifies the proposal of an union, would not, I think, render it gracious, or even just, on the part of Parliament to carry it into effect without referring it for the ample deliberation and consent of the people of those Colonies. Moreover, the state of the two Canadas is such, that neither the feelings of the parties concerned, nor the interests of the Crown or the Colonies themselves, will admit of a single Session, or even of a large portion of a Session of Parliament being allowed to pass without a definite decision by the Imperial Legislature as to the basis on which it purposes to found the future government of those Colonies.

In existing circumstances, the conclusion to which the foregoing considerations lead me, is, that no time should be lost in proposing to Parliament a Bill for repealing the 31 Geo. III; restoring the union of the Canadas under one Legislature; and re-constituting them as one Province.

The Bill should contain provisions by which any or all of the other North American Colonies may, on the application of the Legislature, be, with the consent of the two Canadas, or their united Legislature, admitted into the union on such terms as may be agreed on between them.

As the mere amalgamation of the Houses of Assembly of the two Provinces would not be advisable, or give at all a due share of representation to each, a Parliamentary Commission should be appointed, for the purpose of forming the electoral divisions, and determining the number of members to be returned on the principle of giving representation, as near as may be, in proportion to population. I am averse to every plan that has been proposed for giving an equal number of members to the two Provinces, in order to attain the temporary end of out-numbering the French, because I think the same object will be obtained without any violation of the principles of representation, and without any such appearance of injustice in the scheme as would set public opinion, both in England and America, strongly against it; and because, when emigration shall have increased the English population in the Upper Province, the adoption of such a principle would operate to defeat the very purpose it is intended to serve. It appears to me that any such electoral arrangement, founded on the present provincial divisions, would tend to defeat the purposes of union, and perpetuate the idea of disunion.

At the same time, in order to prevent the confusion and danger likely to ensue from attempting to have popular elections in districts recently the seats of open rebellion, it will be advisable to give the Governor a temporary power of suspending by proclamation, stating specifically the grounds of his determination, the writs of electoral districts, in which he may be of opinion that elections could not safely take place.

The same commission should form a plan of local government by elective bodies subordinate to the general legislature, and exercising a complete control over such local affairs as do not come within the province of general legislation. The plan so framed should be made an act of the Imperial Parliament, so as to prevent the general legislature from encroaching on the powers of the local bodies.

A general executive on an improved principle should be established, together with a Supreme Court of Appeal, for all the North American Colonies. The other establishments and laws of the two Colonies should be left unaltered, until the Legislature of the Union should think fit to change them; and the security of the existing endowments of the Catholic Church in Lower Canada should be guaranteed by the Act.

The constitution of a second legislative body for the united legislature, involves questions of very great difficulty. The present constitution of the Legislative Councils of these Provinces has always appeared to me inconsistent with sound principles, and little calculated to answer the purpose of placing the effective check which I consider necessary on the popular branch of the Legislature. The analogy which some persons have attempted to draw between the House of Lords and the Legislative Councils seems to me erroneous. The constitution of the House of Lords is consonant with the frame of English society; and as the creation of a precisely similar body in such a state of society as that of these Colonies is impossible, it has always appeared to me most unwise to attempt to supply its place by one which has no point of resemblance to it, except that of being a non-elective check on the elective branch of the Legislature. The attempt to invest a few persons, distinguished from their fellow-colonists neither by birth nor hereditary property, and often only transiently connected with the country, with such a power, seems only calculated to ensure jealousy and bad feelings in the first instance, and collision at last. I believe that when the necessity of relying, in Lower Canada, on the English character of the Legislative Council as a check on the national prejudices of a French

Assembly shall be removed by the Union, few persons in the Colonies will be found disposed in favour of its present constitution. Indeed, the very fact of union will complicate the difficulties which have hitherto existed; because a satisfactory choice of councillors would have to be made with reference to the varied interests of a much more numerous and extended community.

It will be necessary, therefore, for the completion of any stable scheme of government, that Parliament should revise the constitution of the Legislative Council, and, by adopting every practicable means to give that institution such a character as would enable it, by its tranquil and safe, but effective working, to act as an useful check on the popular branch of the Legislature, prevent a repetition of those collisions which have already caused such dangerous irritation.

The plan which I have framed for the management of the public lands being intended to promote the common advantage of the Colonies and of the mother country, I therefore propose that the entire administration of it should be confided to an imperial authority. The conclusive reasons which have induced me to recommend this course, will be found at length in the separate Report on the subject of Public Lands and Emigration.

All the revenues of the Crown, except those derived from this source, should at once be given up to the United Legislature, on the concession of an adequate civil list.

The responsibility to the United Legislature of all officers of the Government, except the Governor and his Secretary, should be secured by every means known to the British Constitution. The Governor, as the representative of the Crown, should be instructed that he must carry on his government by heads of departments, in whom the united Legislature shall repose confidence; and that he must look for no support from home in any contest with the Legislature, except on points involving strictly Imperial interests.

The independence of the Judges should be secured, by giving them the same tenure of office and security of income as exist in England.

No money votes should be allowed to originate without the previous consent of the Crown.

In the same Act should be contained a repeal of past provisions with respect to the clergy reserves, and the application of the funds arising from them.

In order to promote emigration on the greatest possible scale, and with the most beneficial results to all concerned, I have elsewhere recommended a system of measures which has been expressly framed with that view, after full inquiry and careful deliberation. Those measures would not subject either the colonies or the mother country to any expense whatever. In conjunction with the measures suggested for disposing of public lands, and remedying the evils occasioned by past mismanagement in that department, they form a plan of colonization to which I attach the highest importance. The objects, at least, with which the plan has been formed, are to provide large funds for emigration, and for creating and improving means of communication throughout the provinces; to guard emigrants of the labouring class against the present risks of the passage; to secure for all of them a comfortable resting place, and employment at good wages immediately on their arrival; to encourage the investment of surplus British capital in these colonies, by rendering it as secure and as profitable as in the United States; to promote the settlement of wild lands and the general improvement of the colonies; to add to the value of every man's property in land; to extend the demand for British manufactured goods, and the means of paying for them, in proportion to the amount of emigration and the general increase of the colonial people; and to augment the colonial revenues in the same degree.

When the details of the measure, with the particular reasons for each of them, are examined, the means proposed will, I trust, be found as simple as the ends are great; nor have they been suggested by any fanciful or merely speculative view of the subject. They are founded on the facts given in evidence by practical men; on authentic information, as to the wants and capabilities of the colonies; on an examination of the circumstances which occasion so high a degree of pros-

perity in the neighbouring States; on the efficient working and remarkable results of improved methods of colonization in other parts of the British Empire; in some measure on the deliberate proposals of a Committee of the House of Commons; and, lastly, on the favourable opinion of every intelligent person in the colonies whom I consulted with respect to them. They involve, no doubt, a considerable change of system, or rather the adoption of a system where there has been none; but this, considering the number and magnitude of past errors, and the wretched economical state of the colonies, seems rather a recommendation than an objection. I do not flatter myself that so much good can be accomplished without an effort; but in this, as in other suggestions, I have presumed that the Imperial Government and Legislature will appreciate the actual crisis in the affairs of these colonies, and will not shrink from any exertion that may be necessary to preserve them to the Empire.

By the adoption of the various measures here recommended, I venture to hope that the disorders of these Colonies may be arrested, and their future well-being and connection with the British Empire secured. Of the certain result of my suggestions, I cannot, of course, speak with entire confidence, because it seems almost too much to hope that evils of so long growth and such extent, can be removed by the tardy application of even the boldest remedy; and because I know that as much depends upon the consistent vigour and prudence of those who may have to carry it into effect, as on the soundness of the policy suggested. The deep-rooted evils of Lower Canada will require great firmness to remove them. The disorders of Upper Canada, which appear to me to originate entirely in mere defects of its constitutional system, may, I believe, be removed by adopting a more sound and consistent mode of administering the government. We may derive some confidence from the recollection, that very simple remedies yet remain to be resorted to for the first time. And we need not despair of governing a people who really have hitherto very imperfectly known what it is to have a Government.

I have made no mention of emigration, on an extended

scale, as a cure for political disorders, because it is my opinion, that until tranquillity is restored, and a prospect of free and stable government is held out, no emigrants should be induced to go to, and that few would at any rate remain in Canada. But if, by the means which I have suggested, or by any other, peace can be restored, confidence created, and popular and vigorous government established, I rely on the adoption of a judicious system of colonization as an effectual barrier against the recurrence of many of the existing evils. If I should have miscalculated the proportions in which the friends and the enemies of British connection may meet in the United Legislature, one year's emigration would redress the balance. It is by a sound system of colonization that we can render these extensive regions available for the benefit of the British people. The mismanagement by which the resources of our Colonies have hitherto been wasted, has, I know, produced in the public mind too much of a disposition to regard them as mere sources of corruption and loss, and to entertain, with too much complacency, the idea of abandoning them as useless. I cannot participate in the notion that it is the part either of prudence or of honour to abandon our countrymen, when our government of them has plunged them into disorder, or our territory, when we discover that we have not turned it to proper account. The experiment of keeping colonies and governing them well, ought, at least, to have a trial, ere we abandon for ever the vast dominion which might supply the wants of our surplus population, and raise up millions of fresh consumers of our manufactures, and producers of a supply for our wants. The warmest admirers, and the strongest opponents of republican institutions, admit or assert that the amazing prosperity of the United States is less owing to their form of government, than to the unlimited supply of fertile land, which maintains succeeding generations in an undiminishing affluence of fertile soil. A region as large and as fertile is open to Your Majesty's subjects in Your Majesty's American dominions. The recent improvements of the means of communication will, in a short time, bring the unoccupied lands of Canada and New Brunswick within

as easy a reach of the British Isles, as the territories of Iowa and Wisconsin are of that incessant emigration that annually quits New England for the Far West.

I see no reason, therefore, for doubting that, by good government, and the adoption of a sound system of colonization, the British possessions in North America may thus be made the means of conferring on the suffering classes of the mother country many of the blessings which have hitherto been supposed to be peculiar to the social state of the New World.

In conclusion, I must earnestly impress on Your Majesty's advisers, and on the Imperial Parliament, the paramount necessity of a prompt and decisive settlement of this important question, not only on account of the extent and variety of interests involving the welfare and security of the British Empire, which are perilled by every hour's delay, but on account of the state of feeling which exists in the public mind throughout all Your Majesty's North American possessions, and more especially the two Canadas.

In various Despatches addressed to Your Majesty's Secretary of State, I have given a full description of that state of feeling, as I found it evinced by all classes and all parties, in consequence of the events which occurred in the last Session of the British Parliament. I do not allude now to the French Canadians, but to the English population of both provinces. Ample evidence of their feelings will be found in the Addresses which were presented to me from all parts of the North American Colonies, and which I have inserted in an Appendix to this Report. But, strong as were the expressions of regret and disappointment at the sudden annihilation of those hopes which the English had entertained of seeing a speedy and satisfactory termination of that state of confusion and anarchy under which they had so long laboured, they sunk into insignificance when compared with the danger arising from those threats of separation and independence, the open and general utterance of which was reported to me from all quarters. I fortunately succeeded in calming this irritation for the time, by directing the public mind to the prospect of those remedies which the

wisdom and beneficence of Your Majesty must naturally incline Your Majesty to sanction, whenever they are brought under Your Majesty's consideration. But the good effects thus produced by the responsibility which I took upon myself, will be destroyed; all these feelings will recur with redoubled violence; and the danger will become immeasurably greater, if such hopes are once more frustrated, and the Imperial Legislature fails to apply an immediate and final remedy to all those evils of which Your Majesty's subjects in America so loudly complain, and of which I have supplied such ample evidence.

For these reasons, I pray Your Majesty's earnest attention to this Report. It is the last act arising out of the loyal and conscientious discharge of the high duties imposed upon me by the Commission with which Your Majesty was graciously pleased to entrust me. I humbly hope that Your Majesty will receive it favourably, and believe that it has been dictated by the most devoted feeling of loyalty and attachment to Your Majesty's Person and Throne, by the strongest sense of public duty, and by the earnest desire to perpetuate and strengthen the connection between this Empire and the North American Colonies, which would then form one of the brightest ornaments in Your Majesty's Imperial Crown.

All which is humbly submitted to Your Majesty.

DURHAM.

London, 31st January, 1839.

LORD GLENELG TO THE EARL OF DURHAM.

Downing Street, 5th February 1839.

My Lord,

I have the honour to acknowledge the receipt of your Lordship's Letter of the 31st ultimo, transmitting your Report, as Her Majesty's High Commissioner, on the Affairs of British North America. Having had the honour of laying this Report before the Queen, I am commanded to express to you Her Majesty's approbation of the attention which you have devoted to this important subject, and of the full and comprehensive view which you have taken of the various interests comprised in it.

I need not assure your Lordship that this Report will receive the most careful and attentive consideration from Her Majesty's Government. On a matter of such grave importance, and in the absence of the Appendix to your Report, which has not yet been received, I am of course unable to express any opinion on the recommendations which you have made; but Her Majesty's Government will not fail to take it into immediate consideration, in the hope that the result of your labours may lay the foundation of a permanent settlement of the interests involved in the Commission which was confided to you by Her Majesty.

I have, &c.

(Signed) GLENELG.

The Earl of Durham, G.C.B.
&c. &c. &c.

CORRESPONDENCE

OF

THE EARL OF DURHAM,

GOVERNOR GENERAL, &c.

RELATIVE TO THE AFFAIRS OF

BRITISH NORTH AMERICA.

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RELATIVE TO THE

AFFAIRS OF BRITISH NORTH AMERICA.

DESPATCH from the Earl of Durham, G.C.B. to Lord Glenelg.

Quebec, Castle of St. Lewis, 31 May 1838.

My Lord,

I HAVE the honour to inform your Lordship that I arrived here on the 27th.

The weather being very unfavourable, I could not land until the 29th, on which day I proceeded to the council chamber at the castle and took the prescribed oaths, which were duly administered to me in the presence of Sir John Colborne.

The streets through which I passed were extremely crowded, and I could not but be highly gratified with the cordial greeting which I received, and with the more than friendly feeling towards me which seemed to animate the assembled multitude.

Immediately after my investiture I issued the proclamation, of which I enclose your Lordship copies.

It has been most favourably received, according to the best information I can obtain, by all classes and parties.

I have, &c.

(signed) *Durham.*

(Enclosure.)

[*From the Quebec Gazette Extraordinary, of Tuesday, 29 May* 1838.]

DURHAM.

By his Excellency the Right Honourable John George Earl of Durham, Viscount Lambton, &c. &c., Knight Grand Cross of the Most Honourable Military Order of the Bath, one of Her Majesty's Most Honourable Privy Council, and Governor-general, Vice-admiral, and Captain-general of all Her Majesty's Provinces within and adjacent to the Continent of North America, &c. &c. &c. &c.

A PROCLAMATION.

THE QUEEN having been graciously pleased to entrust to me the government of British North America, I have this day assumed the administration of affairs.

In the execution of this important duty, I rely with confidence on the cordial support of all Her Majesty's subjects, as the best means of enabling me to bring every question affecting their welfare to a successful issue, especially such as may come under my cognizance as Her Majesty's High Commissioner.

The honest and conscientious advocates of reform, and of the amelioration of defective institutions, will receive from me, without distinction of party, races, or politics, that assistance and encouragement which their patriotism has a right to command from all who desire to strengthen and consolidate the connection between the parent state and these important colonies; but the disturbers of the public peace, the violators of the law, the enemies of the Crown and of the British empire, will find in me an uncompromising opponent, determined to put in force against them all the powers, civil and military, with which I have been invested.

In one province the most deplorable events have rendered the suspension of its representative constitution, unhappily, a matter of necessity, and the supreme power has devolved on me.

The great responsibility which is thereby imposed on me, and the arduous nature of the functions which I have to discharge, will naturally make me most anxious to hasten the arrival of that period when the executive power shall again be surrounded by all the constitutional checks of free, liberal, and British institutions.

On you—the people of British America—on your conduct,

and the extent of your co-operation with me, will mainly depend whether that event shall be delayed or immediate. I therefore invite from you the most free, unreserved communications. I beg you to consider me as a friend and arbitrator, ready at all times to listen to your wishes, complaints, and grievances, and fully determined to act with the strictest impartiality.

If you, on your side, will abjure all party and sectarian animosities, and unite with me in the blessed work of peace and harmony, I feel assured that I can lay the foundations of such a system of government as will protect the rights and interests of all classes, allay all dissensions, and permanently establish, under Divine Providence, that wealth, greatness, and prosperity of which such inexhaustible elements are to be found in these fertile countries.

Given under my hand and seal at arms, at the Castle of St. Lewis, in the city of Quebec, in the said province of Lower Canada, the 29th day of May, in the year of our Lord 1838, and in the first year of Her Majesty's reign.

By command,

Charles Buller, Chief Secretary.

DESPATCH from the Earl of Durham, G.C.B., to Lord Glenelg.

Castle of St. Lewis, Quebec, 2 June 1838.

My Lord,

I regret to have to announce to your Lordship the occurrence of a most scandalous outrage committed on the frontiers of Upper Canada by a band of American pirates.

I enclose your Lordship the reports from Colonel Dundas, detailing the particulars of this lawless act, which were communicated to me yesterday by Lieutenant-general Sir John Colborne.

I have, with his concurrence and approbation, issued a proclamation, of which I enclose your Lordship a copy, together with the offer of a reward of one thousand pounds for the discovery and conviction of the offenders.

It appears from the advices which have been received from the officers detached on the service of the frontiers, that the utmost alarm prevails along the whole line, and this account is corroborated by a communication from Captain Sandom to the senior naval officer, received here this morning.

In these circumstances, I have directed Sir J. Colborne to

make the necessary dispositions for reinforcing the nearest posts to the scene of outrage, and have the honour to enclose you his report.

I have also determined on sending Colonel Grey to Washington, for the purpose of communicating with Her Majesty's minister, and putting him in full possession of all the circumstances of the case, and requesting him to require from the United States' government immediate attention to and redress of this infamous outrage.

I have received information that it is intended to keep up a state of constant alarm on the whole line of frontiers by attacks of this kind, at various and distant points. If this system be permitted, the consequences will be most serious, both as regards the population on our side of the line, and also the expense which will be incurred in providing adequate means of defence. The Commander-in-chief tells me that, to effect the latter object, he will be obliged to have recourse to the volunteers, a measure greatly to be deprecated.

Their cost is three times that of the regular troops, and their continuance in arms must tend greatly to embarrass me in all measures connected with the internal state of the two provinces.

Sir John Colborne will immediately proceed to the spot where this occurrence has taken place, for the purpose of procuring the fullest information, and making every necessary military arrangement.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham, G.C.B., to Lord Glenelg.

Castle of St. Lewis, Quebec, 6 June 1838.

My Lord,

I do myself the honour to transmit to your Lordship copies of despatches which I have written to the Lieutenant-governors of Upper Canada, New Brunswick, Prince Edward's Island, and to the Governor of the island of Newfoundland, in pursuance of your Lordship's despatch of the 3d April last.

I have, &c.

(signed) *Durham.*

(Enclosure.)

Castle of St. Lewis, Quebec, 1 June 1838.

Sir,

I have directed the transmission to you of two commissions which will accompany this despatch.

I have also to request your Excellency, in pursuance of Lord Glenelg's instructions respecting the official correspondence to be carried on between us in future, to enter into the most free and confidential communications with me on all subjects affecting the province of Upper Canada, both as regards its internal condition and the state of affairs on the frontiers.

Your Excellency will of course understand that this request does not contemplate any interference with your administration of the government, but refers to the necessity which exists that I, as Governor-general of the North American provinces, should be immediately informed of all matters of general interest affecting the high and important mission which has been confided to me.

It will be my duty as well as my inclination to uphold your authority, not only from the respect I must entertain for you personally, but from a due regard to the efficiency of the public service.

I have, &c.

(signed) *Durham.*

To their Excellencies the Lieutenant-governors of Upper Canada, New Brunswick, and Prince Edward's Island, &c.

DESPATCH from the Earl of Durham, G.C.B., to Lord Glenelg.

Castle of St. Lewis, Quebec, 8 June 1838.

My Lord,

Your Lordship is doubtless aware that in the execution of the important mission confided to me, my presence will be frequently required, at a few hours' notice, at Quebec, Montreal, and at various intermediate places on both banks of the St. Lawrence. To enable me to visit those places, a steam-vessel, well manned and armed, will be essentially necessary, and I have therefore directed the Commissary-general to ascertain the terms upon which a vessel of that description can be procured.

By the report of this officer it appears, that a certain company has established an entire monopoly of the steam conveyance between Montreal and Quebec, and that the consequent impositions upon Government have been of a very extravagant nature. As an instance, it may be mentioned, that on Sir John Colborne proceeding a few days ago to the frontier of Upper Canada, this company charged 200*l.*

(currency) for the transport of himself, the officers of his staff and their horses, from Quebec to Montreal, the passage being accomplished in 20 hours.

This company declines to supply a steam-vessel for the use of the Government at a lower rate than 100*l.* currency per diem, and to these terms I shall be of course compelled to accede.

Her Majesty's steam-vessels, Medea and Dee, which have been ordered to this station, and are daily expected, are, from their heavy draught of water, altogether unfit for the navigation of the St. Lawrence above Quebec. I very earnestly recommend, therefore, that a steam ship of war, of a draught of water not exceeding 11 feet, be immediately sent out to Quebec, and placed at my disposal.

By this arrangement the conveyance of all troops and military stores between Quebec and Montreal may be performed in a much more satisfactory and efficient manner than at present, the monopoly of the steam-boat company, so far as Government is concerned, would be obviated, one of the larger steam-ships of war may be dispensed with, and a considerable saving would accrue to the public.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham, G.C.B., to Lord Glenelg.

Castle of St. Lewis, Quebec, 16 June 1838

My Lord,

I have the honour to enclose you copies of my despatch to Mr. Fox, to which I referred in my despatch of the 2d inst,, and of my instructions to Lieutenant-Colonel Grey.

I have, &c.

(signed) *Durham.*

(Enclosure 1.)

Castle of St. Lewis, Quebec, 5 June 1838.

Sir,

I have to enclose you, with feelings of the deepest regret, copies of reports from Colonel Dundas, together with communications from Major Young and Captain Whitney, relating to the burning of the "Sir Robert Peel" steamer, at Wells' Island, and the state of the frontiers in the neighbourhood. I also enclose you a copy of the proclamation

which I issued immediately on receiving accounts of the occurrence of this infamous outrage.

Sir John Colborne left Quebec yesterday for the purpose of repairing to the frontiers; and I have this day despatched Lieutenant-colonel the Hon. Charles Grey, who will be the bearer of this, that he may have personal communication with you.

Captain Arthur, who arrived this morning with despatches from Sir George Arthur, informs me that his Excellency had forwarded to you accounts of this act of aggression. You will therefore be prepared for receiving from me the most earnest representations, to be conveyed to the President of the United States, that this state of things should no longer be permitted to exist by the American government.

Colonel Grey is instructed by me to acquaint you of my firm determination to protect the lives and properties of Her Majesty's subjects against such lawless attacks by all the means, civil and military, which I can command. I am convinced that the government of the United States will feel it due to their national honour to prevent the repetition of offences, the longer continuance of which, and of the impunity with which they have been hitherto perpetrated, is a disgrace to all civilized governments.

I request you to obtain for Colonel Grey an interview with the President; immediately after which he is instructed to return to head quarters.

I have, &c.

(signed) *Durham.*

His Excellency Henry Stephen Fox, Esq.
Minister Plenipotentiary, Washington.

(Enclosure 2.)

Castle of St. Lewis, Quebec, 5 June 1838.

Sir,

I HAVE to request that you will immediately proceed to Washington. On your arrival there, you will deliver the enclosed despatch to her Majesty's minister.

I have directed Mr. Fox to request an interview for you with the President of the United States. You will be pleased to express to him my feelings of sincere respect for him and his country: and assure him, that in the discharge of my duty as Governor-General of British North America, I shall be most anxious to cultivate relations of amity and cordiality with the government of the United States. You will

acquaint him that I feel persuaded that he will view the outrage at Wells' Island with feelings of as much indignation as myself, and that I confidently rely on the most prompt and efficacious means being taken by the American authorities to bring the perpetrators of this heinous offence to condign punishment. At the same time you will make him understand that something more is required from the United States' government; that the redress of this particular outrage must also be accompanied by measures for the prevention in future of similar crimes. The British frontier cannot be left exposed to these perpetual attacks and this constant irritation; and I have a right to call on the American government to fulfil the most sacred of all duties, the due observance of the faith of treaties, and the strict maintenance of the rights of friendly powers. I earnestly hope that the executive power on the American side will be effectively and promptly employed, In justice to those of Her Majesty's subjects, the insecurity of whose lives and properties, in consequence of these repeated attacks proceeding from the United States, is daily and hourly represented to me, I make this communication. In all circumstances, and at all hazards, I must afford them protection; and it will give me the sincerest pleasure to find that my task is rendered easier by the co-operation of the American government.

I have, &c.

(signed) *Durham.*

Lieut.-colonel the Hon. Charles Grey.

DESPATCH from the Earl of Durham, G.C.B., to Lord Glenelg.

Castle of St. Lewis, Quebec, 16 June 1838.

My Lord,

I HAVE the honour to enclose you two reports from Captain Sandom, of the Royal Navy, on the state of the naval force under his command at Kingston, together with a despatch from Sir John Colborne, on the same subject.

In consequence of these representations, I communicated with Vice-admiral Sir Charles Paget, who arrived here from Halifax on the 13th instant, and stated to him that an augmentation of Captain Sandom's force was necessary, for the purpose of protecting the British frontiers on the St. Lawrence and Lakes Erie and Ontario, against the systematic attacks of pirates and robbers, who in defiance of the

laws of nations, and especially of those of Great Britain and the United States, were continually engaged in assailing and plundering Her Majesty's subjects.

The Admiral has promptly complied with the demand, and has placed under Captain Sandom's command the requisite amount of officers and men, who will immediately proceed to Kingston. I have given Captain Sandom the strictest orders to confine his operations to the defence of our own shores, in our own waters, and never, under any circumstances, to attack any vessels on the American coast. Any outrage committed by such vessels, so situated, must be dealt with by the respective governments of the two countries, and not by any summary mode of attack or retaliation.

I am convinced that the sight of this small force even, manned by British officers and seamen, will tend more than any thing else to re-establish confidence amongst our own people, and to overawe the lawless ruffians who now infest those districts with impunity.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham, G.C.B., to Lord Glenelg.

Castle of St Lewis, Quebec, 16th June 1838.

My Lord,

Lieutenant-General Sir John Colborne returned this day from the Upper Province, having completed his tour of inspection, and made all the necessary arrangements for the distribution of the troops along the whole line of frontiers.

His Excellency states, that he found great excitement prevailing amongst the volunteers, who were worked upon by the most exaggerated reports of invasion, purposely kept up along the American lines. He has replaced them in all cases, where it was possible, by regular troops, and in every instance placed them under the control of her Majesty's officers.

He is of opinion that the organization of Captain Sandom's force will have an excellent effect, and, together with his own arrangements, will effectually provide for the security of the Upper Province. His Excellency states, however, that it is in a very feverish state internally, and recommends my going there as soon as possible.

I shall, in consequence, leave Quebec the first week in July, and, passing through Montreal, go to Kingston, Toronto,

and the Niagara frontier. On my return, I shall visit the disaffected districts, where the late disturbances took place.

Sir John Colborne informs me that Governor Marcy stated to a gentleman, who was his informant, that the feeling along the whole frontier of the state of New York was so strong, that it was beyond his control, by any means at his command.

But then, it must be remembered, that the whole population referred to are of the worst class and description—squatters, refugees, and smugglers; and that the executive power of the United States' government is a perfect nullity.

All the accounts I receive concur in reporting that ninety-nine out of a hundred of the respectable and influential citizens, whatever may be their politics, unite in condemning the conduct of the frontier population, and in deprecating the idea of a war with England.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham, G.C.B. to Lord Glenelg.

Castle of St. Lewis, Quebec, 16th June 1838.

My Lord,

I am compelled to request your immediate attention to a deficiency in the legislative power of the special council, which it appears to me absolutely necessary that Parliament should as speedily as possible remedy.

The 3d section of the 1st of the Queen, c. 9, directs the special council to impose no "tax, rate, or impost, save only in so far as any tax, duty, rate, or impost, which at the passing of this Act is payable within the said province, may be thereby continued."

I can perfectly appreciate the laudable forbearance of the Imperial Parliament in withholding the power of taxation from the legislative body, which is substituted for a while in place of that formerly representing the commons of the province; but my short experience of the actual state of affairs in the province convinces me, that without such a power it is impossible for me to discharge duties of the most urgent importance, the expense of which would be cheerfully defrayed by those on whom the necessary tax would be imposed.

Nothing is of more urgent necessity than the establishment in this province of municipal institutions on a scale more or

less extended, but an essential part of any such system is the giving to the municipal bodies a power of taxing the localities for local purposes. Under the provisions of the Act the special council is precluded from giving any such power, because it cannot of course have the power of delegating to others authority to do that which it cannot do itself.

I have found the police of Quebec in a most disgracefully inefficient state; I have taken measures to put it on a satisfactory footing; but the special council has no power to levy on the inhabitants any tax for the purpose of defraying an expense to which all would cheerfully contribute.

No provision whatever is made for the lighting, paving, or other municipal wants of Quebec or Montreal. Local taxes were formerly levied for these purposes under the authority of provincial Acts, which have shared the common fate of other temporary Acts during the last three or four years, and were consequently not in force at the passing of the late Act.

These taxes, though always cheerfully paid during their continuance, and unobjectionable in their nature, cannot under the power vested in the present legislature of the province be revived. The masters of ships have represented to me the very defective state of the police in particular parts of the town as producing the worst effects on their interests, and have requested me to impose on them a slight tax which would defray the whole charge of an efficient police for the city of Quebec, and to which they would most cheerfully contribute, in order to obtain from the Government a protection which they greatly need, and have a right to demand; but I have no power to accept their offer.

It appears to me probable that a demand of a yet more urgent and extensive nature may be made on the provincial government for the continuance and maintenance of public works, either uncompleted or going to ruin for want of timely repairs; I have not yet had time to collect sufficient information on this head; it will probably hereafter be the subject of a separate despatch; I advert to it merely to point out another class of important and urgent public services, for which no adequate provision can be made with my present power.

I beg to suggest that application be made to Parliament before the close of the Session, to extend the powers given to the special council in this respect. There seems to be no reason why a general power of taxation should not be given to the special council, subject to a provision that every ordinance imposing a tax should be laid on the table of both Houses of Parliament, so that an opportunity might be afforded to either

House to address the Crown to withhold its assent to any such ordinance of which it might not approve; or, if such a course were not deemed advisable, it might afford a sufficient remedy for the most pressing evils if the special council were enabled to impose local taxes for local purposes, or to give a power of so doing to such municipal bodies as it may hereafter establish.

Whichever course your Lordship may think proper to propose, or Parliament to adopt, I have only to repeat that it appears to me essential to the best interests of the province that some extension of the powers of the special council should be made before the close of the present Session of Parliament.

I have, &c.

(signed) *Durham.*

Extract of a DESPATCH from the Earl of Durham, G.C.B. to Lord Glenelg, dated Castle of St. Lewis, Quebec, 23 June, 1838.

I have the honour to acquaint your Lordship that Colonel Grey returned to Quebec yesterday from Washington, and delivered to me a despatch from Mr. Fox, a copy of which I enclose.

I also have the honour of transmitting to you Lieutenant-colonel Grey's report to me of his proceedings, with two enclosures.

Immediately after his arrival I communicated with Sir John Colborne and Sir Charles Paget, and requested their Excellencies to send, by that night's mail, instructions to Colonel Dundas and Captain Sandom to enter into immediate communication with General Macomb.

This they agreed to, and the despatches were forwarded last night.

It seemed to me of the highest importance to bring the fair intentions of the American government to a practical test as soon as possible after receiving such hearty assurances of co-operation. I am also of opinion that a great and salutary effect will be produced by the sight of the two flags united in one common effort to put an end to this unnatural excitement on the frontiers. It has been kept up in a great measure by the rumours which have been circulated of the bad faith and real wishes of the United States' government, and nothing can so much tend to allay it as a public unanswerable act of combined rigour, evincing the good understanding existing between the military authorities of both nations.

Directed as I trust the application of this force will be, at least whilst I am here, no legitimate grounds of national jealousy need be apprehended on the part of the United States; but the sight of our efficient means of protecting the tranquillity of our colonies and the interests of Her Majesty's subjects will go a great way towards removing those vague expectations of disunion and dissention amongst ourselves, from which the unscrupulous and enterprising portion of the Americans anticipated increased profit to themselves and additional power to their country.

I must therefore earnestly request your Lordship to keep up the amount of our naval and military force to the fullest possible extent during the present year.

(Enclosure 1.)

(Extract.) Washington, 16 June 1838.

My Lord,

I have the honour to acknowledge the receipt of your Lordship's despatch dated the 5th instant, which was delivered to me on the 12th by Lieutenant-colonel the Honourable Charles Grey. The mission of Colonel Grey has been highly satisfactory to me, and will, I believe, have been productive of material advantage to the interests of Her Majesty's service. Colonel Grey has had interviews with the President, and with the Secretary of State, Mr. Forsyth, and also with Mr. Poinsett, the Secretary-at-war, under the immediate direction of whose department the operations of the United States' government on the frontier are conducted.

I have the honour to enclose the copy of a letter from the United States' Secretary-at-war, stating the measures which have now been adopted, with the hope of restoring order on the frontier. Colonel Grey will state to you, verbally, some further details communicated to him by the President and by Mr. Poinsett. I beg to assure you of my sincere desire to co-operate with you to the best of my power in all things that may tend to the benefit of Her Majesty's service, and to the success of the honourable and arduous mission which your Lordship has undertaken.

I have, &c.

(signed) *H. S. Fox.*

The Right hon. the Earl of Durham, C. C. B.,
&c. &c. &c.

(Enclosure 2.)

Department of War, 11 June 1838.

Sir,

It appears important that the authorities of Her Majesty's dominions in Canada should be informed of the measures now in progress, under the directions of the President, to maintain the peace of the frontier.

Unarmed steamers are to be employed on Lake Erie and Lake Ontario for public purposes, to be commanded by officers of the army or navy of the United States, and to carry about fifty soldiers each.

A force has been ordered to Sackett's Harbour, in order to scour that portion of the Thousand Islands which lies within the limits of the United States, for the purpose of executing the laws of the United States.

General Macomb, commander-in-chief of the American army, is to proceed forthwith to the northern frontier, to conduct operations there.

Very respectfully, &c.

(signed) *J. R. Poinsett.*

Hon. John Forsyth, Secretary of State.

(Enclosure 3.)

Quebec, 22d June 1838.

My Lord,

I have the honour to inform you, that in pursuance of the instructions contained in your Excellency's letter of the 5th instant, I proceeded to Washington, where I arrived on the 12th, and delivered the despatches with which I was charged to Mr. Fox.

The following day I had the honour of an interview with the President of the United States, but being in company with Mr. Fox, I contented myself with adding my testimony to the representations which he made as to the excited state of feeling on the Canadian frontier, reserving any further communication for the next day, when, being invited to dine with the President, I hoped to find an opportunity, in obedience to your Excellency's orders, of speaking to him in private.

By going early I obtained this opportunity, when I informed him that your Excellency's object in sending me to Washington was, that I might give him the direct assurance from yourself of your anxious wish, in the discharge of your

duty as Governor-general of British North America, to cultivate the most cordial relations with the government of the United States, and to express your earnest hope that you might meet with the effectual co-operation of that government in your endeavours to preserve the peace of the frontier.

At the same time I pointed out to him, that your *first* duty was to give efficient protection to her Majesty's subjects in Canada, who for the last six months, during which time the provinces themselves had been perfectly tranquil, had been kept in a constant state of excitement and alarm by attacks and outrages against life and property, committed by men who had been permitted, almost without interruption, to assemble and concert their measures within the territory of the United States. That those who had come forward so lately in defence of the Queen's Government, when there was not a single regular soldier in Upper Canada, had a right to demand such protection, and that armed as they were to the number of upwards of 20,000 men, and restrained only by their confidence in your Excellency from adopting retaliatory measures, it could not be withheld without imminent danger of their acting for themselves, in a manner which, with the best possible feeling towards each other, might make a collision between the two governments unavoidable. The President assented to every thing I stated most fully, and repeatedly desired me to assure your Excellency, "in the strongest manner," of the sincere desire of the American government to preserve the good understanding existing with England, and that you might reckon upon the fullest co-operation which their means admitted, in any measures which you might think necessary to adopt, for restoring the peace of the frontier.

He mentioned the steps which they had already taken with this view, of which your Excellency has been informed by Mr. Fox; that it was as much as their means allowed at the present moment, but that he had no doubt that the Bill before Congress for the increase of the army would very shortly pass into a law, and that then more rigorous measures should be adopted.

He entered very fully into the accusations which had been brought against the American government; that it was not sincere in its wish to preserve peace; that it had fomented the disturbances in Canada; and that it had ulterior views of its own with regard to that country: all which he denied in the strongest terms, and asserted that the annexation of Canada to the Union was not only far from the wish of the

government, but directy contrary to the interests of the United States.

Later in the evening I had a long conversation on the same subject, at his own request, with Mr. Poinsett, the Secretary-at-war, in which I dwelt more strongly on the necessity your Excellency was under of affording, at all hazards, efficient protection to her Majesty's subjects, and of the regret with which you would find yourself compelled to employ the large force which had been placed at your disposal in securing the Canadian frontier from hostile aggression coming from the United States. Mr. Poinsett asserted, still more strongly than the President, the anxious wish of the American government to preserve peace, and to assist in re-establishing a settled state of things on the frontier. To show what had been already done, he promised to send me the next morning a copy of the instructions given to General Macomb (which I received accordingly, and have herewith the honour to enclose), and suggested that your Excellency should open a communication with that officer as soon as possible, to whom an intimation should immediately be sent that he might expect such communication, with instructions to co-operate in any measures which might be suggested, in the first place for rooting out the band of pirates now assembled in the Thousand Islands, and afterwards for rendering the navigation of the lakes and river, and the communication between the two countries, secure.

Mr. Poinsett attached great importance to an early resumption of the usual intercourse between the countries, and "*pledged himself*" repeatedly, that in the passing of the measures now before Congress for the increase of the army, any suggestion from your Excellency, as to the means of rendering that intercourse safe, should at once be attended to and acted upon; and that, in the mean time, no measure within the scope of their present means to adopt, for the preservation of the peace of the frontier, should be neglected.

Nothing could be more satisfactory than the manner of both the President and Mr. Poinsett; they seemed fully aware of the danger to the peace of the two countries, arising from the present state of things on the frontier, and really desirous of putting an end to it. At the same time, it is evident that there has been hitherto a culpable inactivity on the part of the United States' government; and I cannot but attribute their present measures to the firm tone taken by your Excellency in your proclamation after the burning of the "Sir Robert Peel," and to their knowledge that you have under your orders a force sufficient for the purpose of pro-

tecting Her Majesty's subjects, even without their co-operation. Your Excellency will observe that the communication from Mr. Forsyth to Mr. Fox is only dated the 12th June, the day of my arrival in Washington; that the instructions to General Macomb, and the general order of that officer, which I also enclose, bear the same date. Mr. Fox, however, only received Mr. Forsyth's communication on the 13th, in my presence, after my interview with the President had been arranged; and I cannot but think that the whole of these measures were then adopted, in anticipation of the communication which from your proclamation they had been led to expect from your Excellency, and of which it was supposed I was the bearer.

I have, &c.

(signed) *C. Grey*, Lt. Col.

His Excellency the Earl of Durham, G.C.B.
&c. &c. &c.

DESPATCH from the Earl of Durham, G.C.B., to Lord Glenelg.

Castle of St. Lewis, Quebec, 25 June, 1838.

My Lord,

I have the honour to enclose you a copy of a despatch which I have this day forwarded to Her Majesty's minister at Washington.

I have, &c.

(signed) *Durham.*

(Enclosure.)

Castle of St. Lewis, Quebec, 25 June, 1838.

Sir,

I have the honour to acknowledge the receipt of your despatch, by Lieut.-Colonel Grey.

It gave me sincere pleasure to hear that the United States Government had at length taken active measures to co-operate with us in restoring peace to the frontiers. Immediately after Colonel Grey's arrival, instructions were forwarded to Colonel Dundas and Captain Sandom, the officers commanding in the district where the late outrage occurred, to communicate with General Macomb, for the purpose of effecting a joint move-

ment on the part of the forces of Her Majesty and those of the United States.

Captain Sandom had been previously ordered to equip a sufficient naval force on the St. Lawrence, and the two lakes, and I enclose you a copy of my despatch to Lord Glenelg on the subject, together with Vice-Admiral Sir Charles Paget's instructions, addressed to the Captains of the Hastings and Hercules.

I transmit you these papers that you may be enabled to prove satisfactorily to the United States' Government that any preparations or equipments that we may make on the above-mentioned waters are solely for the defence of our own frontiers, and are not in any degree in contravention of the declaration made to the United States' Government by Sir Charles Bagot, on the 28th of April, 1817.

If there is any difference in the tonnage of the vessels equipped by Captain Sandom, it is a very trifling one, and only arises from the difficulty of procuring them precisely of the size named in the treaty, viz., 100 tons. Their armament also will be according to the letter of the agreement, as long as the necessity of the case does not imperatively require more efficient means of defence. I mention these circumstances to you that you may be in possession of the feelings and intentions of Her Majesty's Government in these provinces with regard to any steps that they may take for their security, and that you may be prepared, in the event of the cabinet of Washington showing any jealousy on the subject, which, I trust, will not be the case, at once to give them the fullest assurances of my determination to authorize no act which could, directly or indirectly, immediately or remotely, bear the semblance of hostility or distrust towards the United States.

Our measures are those of self-defence, not against the United States, but against pirates and outlaws, alike proscribed by both governments.

I have, &c.

(Signed) *Durham.*

His Excellency Henry Stephen Fox, Esq.,
Minister Plenipotentiary, Washington.

Despatch from the Earl of Durham, G.C.B., to Lord Glenelg.

Castle of St. Lewis, Quebec, 29 June, 1838.

My Lord,

Amongst the many difficult and important questions the settlement of which I found awaiting my arrival here, that of the trial of the prisoners engaged in the late revolt was by far the most delicate and dangerous.

On referring to your Lordship's despatch to Sir J. Colborne, of the 19th of March, I find that your Lordship was quite aware, from the representations of the law officers of the Crown in this province, and of the magistrates of Montreal, that little expectation was to be entertained of a conviction by the ordinary juries before the regular courts, but that, nevertheless, in your instructions, both to my predecessor and to myself, your Lordship and Her Majesty's Government declined to sanction any departure from the established course of judicial proceedings.

In these circumstances it was very difficult to decide upon what would be the most judicious steps to be taken. If a trial took place, there existed the danger of an acquittal, which would have been considered as a triumph [and naturally] by the disaffected, and would have produced the worst consequences. On the other hand, even if a conviction was obtained, the excitement of the proceedings, the exposure of the acts of treason and disaffection, and the revival of the whole question, would have again re-opened and inflamed all those party animosities, the calming of which was an indispensable preliminary to the final settlement of Canadian affairs; at the same time it was absolutely necessary to make an example which should deter others from the commission, in future, of the like crimes. The loyal and well-affected had a right to require security for the future, and the due punishment of those guilty persons who had plunged the province into rebellion and civil war. The first step which I took on my arrival was to examine most carefully the list of prisoners, and the depositions affecting each. In so doing I discovered that against only eight or nine there existed any evidence which would warrant the application of great severity, the chief leaders and instigators of the revolt having fled from the province, and being in safety in the United States. I next applied myself, by answers to addresses and private applications, to the discouragement of any notion of the possibility of a general amnesty, and announced that my determination was to punish the guilty, and to extend mercy to the misguided, for

which purpose I issued a special commission for the trial of the prisoners, and sent the Attorney-General with it to Montreal.

These measures produced the salutary consequences which I expected, and, joined to other means through which they became convinced that I would not suffer the guilty to escape, induced the ringleaders to plead guilty, and throw themselves on the mercy of the Crown.

Yesterday I summoned a special council, a list of the members of which I enclose your Lordship, and passed an ordinance, by which the prisoners who pleaded guilty are transported from the continent of America during Her Majesty's pleasure. M. Papineau and his associates who fled from justice are prevented from re-entering the province, and the remainder are enlarged, on giving security for their good conduct. I also issued a proclamation in Her Majesty's name, which announces the latter act of grace at the same time with the ordinance which inflicts the punishment.

These measures have met with the entire approbation of Sir John Colborne, and of the heads of what is called the British party. They declared that they did not require any sanguinary punishment, but they desired security for the future, and the certainty that the returning tranquillity of the province should not be arrested by the machinations of these ringleaders of the rebellion, either here or in the United States. This I have effected for them to their contentment.

I did not think it right to transport these persons to a convict colony, for two reasons: — First, Because it was affixing a character of moral infamy on their acts which public opinion would not sanction; and secondly, Because I hold that it would be impolitic to force on the colony itself persons who would be looked upon in the light of political martyrs, and thus acquire perhaps a degree of influence which might be applied to evil uses in a community composed of such dangerous elements.

On consultation, therefore, with Vice-admiral Sir Charles Paget, I determined on sending them to Bermuda, where they could be placed under strict restraint and surveillance. There is, however, little fear of their attempting to escape, as such an act would close at once, and for ever, the door against their ever re-entering their native country.

Sir Charles Paget has ordered the Vestal to be prepared to take the prisoners, eight in number, to Bermuda, immediately on their arrival here; and I trust, therefore, that in a very few days there will not remain in confinement one single

person charged with treasonable and seditious practices in this province. Of course, I do not refer to the murderers of Lieutenant Weir, who will be arraigned in the usual manner at the usual assizes, and whose case ought to be clearly excepted from the class of political offenders.

I have, &c.
(signed) *Durham.*

(Enclosures.)

From the *Quebec Gazette*, Thursday, 28 June 1838.

Secretary's Office, Quebec, 28th June 1838.

His Excellency the Governor-General has been pleased to a point—

Sir Charles Paget, Grand Cross of the Hanoverian Order, Vice admiral of the White;
Major-general Sir James Macdonnell, K.C.B. and K.C.H.;
Lieut.-colonel the Hon. Charles Grey;
Colonel George Couper, K.H.; and
The Hon. Charles Buller.

To be Members of the Special Council.

Anno Secundo Victoriæ Reginæ.

Cap. 1. No. 27.

An Ordinance to provide for the security of the Province of Lower Canada.

WHEREAS divers persons, subjects of Her Majesty in this Province, have been charged with high treason and other offences of a treasonable nature, some of which said persons are at present in custody, and others have withdrawn themselves from the pursuit of justice beyond the limits of this Province; And whereas of the persons so charged and in custody those whose names follow; that is to say, Wolfred Nelson, Robert Shore Milnes Bouchette, Bonaventure Viger, Simeon Marchessault, Henri Alphonse Gauvin, Toussaint Goddu, Rodolphe Des Rivières, and Luc Hyacinthe Masson, all respectively now in the gaol of Montreal, in the custody of the sheriff of Montreal, have severally acknowledged their participation in such high treason, and have submitted themselves to the will and pleasure of Her Majesty. And whereas Louis Joseph Papineau, a Member of the late Assembly of Lower Canada, and Speaker thereof, Cyrile Hector Octave Côte, also a member of the said late Assembly, Julien Gagnon, Robert Nelson, also a Member of the said

late Assembly, Edmund Burke O'Callaghan, also a member of the said late Assembly, Edouard Etienne Rodier, also a member of the said late Assembly, Thomas Storrow Brown, Ludger Duvernay, Etienne Chartier, a priest, George Et. Cartier, John Ryan the elder, and John Ryan the younger, Louis Perrault, Pierre Paul Demaray, Joseph François Davignon, and Louis Gautier, all respectively subjects of Her said Majesty, and against whom respectively warrants for high treason have been issued, have severally absconded from this Province, and withdrawn themselves from the limits thereof and from the pursuit of justice: And whereas it is Her said Majesty's most gracious will and pleasure, that no further proceedings shall be had or taken against any persons whomsoever on account of such high treason or other offences of a treasonable nature, save and except as hereinafter provided; but it is nevertheless expedient to provide for the present security of this Province by effectually preventing the several persons whose names are hereinbefore set forth from being at large therein: Be it therefore ordained and enacted, by his Excellency the Governor of the Province of Lower Canada, by and with the consent and advice of the Special Council for the affairs of the said Province of Lower Canada, constituted and assembled by virtue of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada;" and it is hereby ordained and enacted by the authority aforesaid, that it shall and may be lawful for Her Majesty to transport to Her Majesty's Islands of Bermuda, during Her pleasure, the said Wolfred Nelson, Robert Shore Milnes Bouchette, Bonaventure Viger, Simeon Marchessault, Henri Alphonse Gauvin, Toussaint H. Goddu, Rodolphe Des Rivières, and Luc Hyacinthe Masson respectively, and to subject them or any of them to such restraints in the said Islands, as may be needful to prevent their return to this province; and it is further ordained and enacted by and with the authority aforesaid, that if the said Wolfred Nelson, Robert Shore Milnes Bouchette, Bonaventure Viger, Simeon Marchessault, Henri Alphonse Gauvin, Toussaint H. Goddu, Rodolphe Des Rivières, and Luc Hyacinthe Masson, respectively or any of them, or if the said Louis Joseph Papineau, Cyrile Hector Octave Côte, Julien Gagnon, Robert Nelson, Edmund Burke O'Callaghan, Edouard Etienne Rodier, Thomas Storrow Brown, Ludger Duvernay, Etienne Chartier, George Et. Cartier, John Ryan the elder, and John Ryan the younger,

Louis Perrault, Pierre Paul Demaray, Joseph François Davignon, and Louis Gautier, against whom respectively such warrants for high treason have been issued, and also have so withdrawn themselves from the pursuit of justice as aforesaid, or any of them, shall at any time hereafter, except by permission of the Governor-General of Her Majesty's Provinces on the continent of North America, and High Commissioner for the adjustment of certain important questions depending in the provinces of Upper and Lower Canada, or if there shall be no such Governor-General and High Commissioner, by the permission of the Governor-in-Chief, or Governor, or other person administering the government of this province as hereinafter provided, be found at large, or come within the said province, they or he shall in such case be deemed and taken to be guilty of high treason, and shall on conviction of being so found at large or coming within the said Province without such permission as aforesaid, suffer death accordingly: Provided always, That it shall and may be lawful for such Governor-General and High Commissioner, or if there shall be no such Governor-General and High Commissioner, then for the Governor-in-Chief, Governor, or other person administering the government of this Province, acting for and in behalf of Her said Majesty, so soon as it shall to him appear consistent with the peace and tranquillity of this Province, by any act or instrument under his hand and seal at arms, to grant permission for the said Wolfred Nelson, Robert Shore Milnes Bouchette, Bonaventure Viger, Simeon Marchessault, Henri Alphonse Gauvin, Toussaint H. Goddu, Rodolphe des Rivières, Luc Hyacinthe Masson, Louis Joseph Papineau, Cyrile Hector Octave Côte, Julien Gagnon, Robert Nelson, Edmund Burke O'Callaghan, Edouard Etienne Rodier, Thomas Storrow Brown, Ludger Duvernay, Etienne Chartier, George Et. Cartier, John Ryan the elder, and John Ryan the younger, Louis Perrault, Pierre Paul Demaray, Joseph François Davignon, and Louis Gautier, or any of them, upon giving such security for their future good behaviour and loyal conduct as the said Governor-General and High Commissioner, or if there shall be no such Governor-General and High Commissioner, as the Governor-in-Chief, Governor, or other person administering the government of this Province shall think fit, to return to this Province and reside therein; and the said Wolfred Nelson, Robert Shore Milnes Bouchette, Bonaventure Viger, Simeon Marchessault, Henri Alphonse Gauvin, Toussaint Goddu, Rodolphe des Rivières, Luc Hyacinthe Masson, Louis Joseph Papineau, Cyrile Hector Octave Côte, Julien Gagnon, Robert Nelson, Ed-

mund Burke O'Callaghan, Edouard Etienne Rodier, Thomas Storrow Brown, Ludger Duvernay, Etienne Chartier, George Et. Cartier, John Ryan the elder, and John Ryan the younger, Louis Perrault, Pierre Paul Demaray, Joseph François Davignon, and Louis Gautier, or such of them as shall receive such permission as aforesaid, shall not thenceforth be subject to any penalty or prosecution whatever, for any treason or treasonable or seditious practices by them or him at any time heretofore committed: Provided also, That in any indictment for being so found or coming within the Province without such permission as aforesaid, the burthen of proof of having obtained such permission of the said Governor-General and High Commissioner, Governor-in-Chief, Governor or other person administering the government of this Province, shall lie upon the party accused or indicted thereof.

And it is hereby further ordained and enacted, by and with the authority aforesaid, That nothing in any proclamation of Her Majesty contained, shall extend or be held or construed to extend to the cases of François Jalbert, Jean Baptiste Lussier, Louis Lussier, François Mignault, François Talbot, Amable Daunais, François Nicolas, Etienne Langlois, Gideon Pinsonault, Joseph Pinsonault, or any of them, or to the case of any other person or persons charged with the murder of the late George Weir, a lieutenant in Her Majesty's 32d regiment of foot, or with the murder of the late Joseph Chartrand; nor shall François Jalbert, Jean Baptiste Lussier, Louis Lussier, François Mignault, François Talbot, Amable Daunais, François Nicolas, Etienne Langlois, Gideon Pinsonault, Joseph Pinsonault, or any of them, nor shall any other persons suspected of being concerned in the said murders, or either of them, nor any person concerned in the escape from the custody of the Sheriff of Montreal of Louis Lussier, charged with the murder of the said George Weir, or who may have harboured the said Louis Lussier after, or aided him in such escape, derive any benefit or advantage whatsoever from any proclamation of Her most Gracious Majesty, nor shall any amnesty thereby intended to be granted be taken in any way to apply to such person or persons, or any of them.

Durham.

Ordained and Enacted by the authority aforesaid, and passed in Special Council, at the City of Quebec, the Twenty-eighth day of June, in the second year of the reign of our Sovereign Lady Victoria, by the Grace of

God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth, in the year of our Lord One thousand eight hundred and Thirty-eight.

By His Excellency's Command,

W. B. Lindsay, Clerk Special Council.

Province of Lower Canada. } *Durham.*

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith,

To all to whom these presents shall come, or whom the same may concern, greeting.

PROCLAMATION.

Whereas Our province of Lower Canada hath been long disturbed by political dissensions, and was recently afflicted with rebellion and civil war, whereby it hath become necessary to suspend the constitution of the said province, and to provide for the temporary government thereof, by means of extraordinary powers conferred upon us by the imperial legislature : And whereas We are firmly resolved to punish with the utmost severity any future act of insubordination in Our province, and more especially to prevent in future, as far as in Our power, the occurrence of dissensions similar to those by which Our said province has been long disturbed as aforesaid, by effectually removing all causes of dissension, so that Our said province may be established in peace as a loyal and truly British colony : And whereas in the exercise and in pursuance of the extraordinary powers as aforesaid, it hath been ordained and enacted by an ordinance this day made and passed, according to law, entitled, " An Ordinance to provide for the security of the Province of Lower Canada," that it shall be lawful for us to transport certain persons named in the said ordinance, to Our island of Bermuda, during our pleasure, and that if the said persons, or certain other persons, also named in the said ordinance, who have withdrawn themselves from the pursuit of justice beyond the limits of our said province, shall at any time hereafter, except by permission of Our Governor-general of Our provinces on the continent of North America, and High Commissioner for the adjustment of certain important questions depending in the provinces of Lower and Upper Canada, or if there shall be no such Governor-general or High Commissioner, by the permission of the Governor-in-chief, or Governor, or other person administer-

ing Our government of Lower Canada, as provided in the said ordinance, be found at large, or come within Our said province, they shall in that case be taken and deemed to be guilty of high treason, and shall suffer death accordingly: And whereas, under the peculiar circumstances of our said province as aforesaid, it is not less expedient in Our judgment than grateful to Our heart to mark, by an act of Royal Grace, Our recollection of the ancient and well proven loyalty of all Our Canadian subjects, rather than by any severity of punishment, Our sense of the recent disaffection of some of them: Know ye, therefore, that We have ordained, directed, and declared, and by these presents do ordain, direct, and declare, that no further proceedings shall be had or taken against any persons whatsoever on account of any high treason, or offences of a treasonable nature, with which they now stand charged, or wherewith they may be chargeable at this time, but that all such proceedings, without exception or distinction, save as hereinafter mentioned, shall henceforth cease and determine. And it is our further will and pleasure, that with the exception of such persons as are in that behalf named in the said ordinance, and whose cases are thereby provided for, all persons at present in custody and charged with high treason, or other offences of a treasonable nature, and also, with such exception as aforesaid, all persons who have withdrawn themselves from the pursuit of justice beyond the limits of our said province, shall immediately upon giving such security for their future good and loyal behaviour as Our said Governor-general and High Commissioner, or if there should be no such Governor-general or High Commissioner, then the Governor-in-chief, Governor, or the person administering the government of this province shall direct, be at liberty to return to their homes, and may and shall there remain wholly unmolested by reason of any high treason or other offences of a treasonable nature, in which he or they may have been concerned.

In testimony whereof We have caused these Our letters to be made patent, and the great seal of Our said province of Lower Canada to be affixed thereto.

Witness our right trusty and right well-beloved John George Earl of Durham, Viscount Lambton, &c. &c., Knight Grand Cross of the Most Honourable Military Order of the Bath, one of Our Most Honourable Privy Council, and Governor-general, Vice-admiral, and Captain-general of all our provinces within and adjacent to the continent of North America, &c. &c. &c. &c.

At Our castle of St. Lewis, in Our city of Quebec, in Our said province of Lower Canada, the twenty-eighth

day of June, in the year of our Lord one thousand eight hundred and thirty-eight, and in the second year of Our reign.

(signed) *D. Daly*, Secretary.

We are authorized to state that his Excellency the Governor-general is actively engaged in the preparation of measures, which will, as soon as it may be possible, be embodied in ordinances of the Governor and Special Council, relative to a jury law, a bankrupt law, municipal institutions for the whole province, general education, the establishment of registry offices, and the equitable commutation of feudal tenures.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 29 June, 1838.

My Lord,

Every day of my residence in this part of Her Majesty's dominions tends to convince me more and more of the importance, not to say necessity, with a view to the ultimate objects of my mission, of setting on foot a comprehensive measure of emigration from the mother country; and I may also state, that the opinion here expressed seems to prevail universally amongst the most intelligent and influential of those who are termed the British party in this province. I am further assured that, in Upper Canada, the prospect of an extensive and well-regulated system of emigration is regarded with the deepest interest.

In what degree a judicious disposal of waste lands, the property of the Crown, might be made to promote emigration, I am not yet prepared to assert with precision; but that a very large revenue, whether for emigration or any other purpose, might be raised by the adoption of a wise system in the disposal of Crown lands, is so obvious in this part of the world, where, in the United States, the sum of 20,000,000*l.* has been raised from that source in the course of 40 years, as scarcely to require assertion. It is my duty to add, that the practices (for I will not call them a system) hitherto pursued in the disposal of Crown lands, have been a most active cause of dissatisfaction. It would not be too much to say that this most valuable public property appears to have been squandered without regard to the public interest, and almost without benefit to the majority of those who expected to profit by the profusion.

If ever a large revenue is to be raised from this source in British North America, it appears to me indispensable that,

whatever may be the system adopted, it should be extended to the whole of this group of colonies without exception; for it is plain that, in a country so intimately connected as these colonies are by the St. Lawrence, two or more different systems in different places could not but operate in counteraction of each other. Several standards of value, as it strikes me, in the same country, could scarcely be more conducive to confusion of the monetary system, than several mutually counteracting plans for the disposal of Crown lands in the British provinces bordering on the St. Lawrence, would tend to defeat the objects of any plan. Your Lordship is of course aware, that in the United States, where the sale of public lands has produced, in one year, more than the whole expenses of the federal government, the practice of allowing different methods to prevail in the several States has long since been superseded by a uniform system, under the control of the general government, and applicable to all the States.

Impelled by the above considerations, I have issued a Commission of Inquiry into the disposal of Crown lands, and the best mode of promoting emigration for this province, and have also directed a similar inquiry for the other colonies comprised in my general government. I have the honour to enclose a copy of the Commission, as well as of a circular despatch which I addressed to the Lieutenant-governors of her Majesty's colonies in North America, directing them to attach the great seal of their governments to a similar commission for each colony. Although I should have preferred one general commission, comprising all the colonies, the want of a particular great seal for my general government induced me to adopt this form of proceeding as the one least open to any objection in point of form. That it is not perfectly unobjectionable on that score I am well aware; but the defect, however unimportant in substance, could not, I believe, have been avoided, except by adopting some more questionable course.

I am happy to assure your Lordship that the publication of this Commission, and the circular despatch, appears to have produced very general and decided satisfaction amongst those classes, both at Quebec and Montreal, who are most interested in the improvement of the country, and most desirous to strengthen the connection between these colonies and the mother country. I have, &c.

(signed) *Durham.*

(Enclosures.)

PROVINCE OF LOWER CANADA. *Durham.*

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith,

To Charles Buller, greeting.

Whereas it is highly expedient and desirable that the disposal of the extensive tracts of waste land, the property of the Crown, in our provinces of Lower Canada, Upper Canada, Nova Scotia, and New Brunswick, and our islands of Prince Edward and Newfoundland, should be placed upon such a footing as may most effectually conduce to the increase of population and wealth in the said provinces and islands, and the general prosperity thereof, and in particular to greatly increased emigration from the mother country, both of capitalists and labourers, as permanent settlers ; to the end that while the vast but imperfectly developed resources of the said provinces and islands should, as soon as possible, be made fully productive, a more intimate connection between Britain and her colonial empire in North America, founded on common interests, and productive of mutual advantages, may be established and permanently secured. And whereas we have ordered and directed each of our Lieutenant-governors of our provinces of Upper Canada, Nova Scotia, and New Brunswick, and our islands of Prince Edward and Newfoundland respectively, to affix the great seal of the province or island of which each is respectively Lieutenant-governor to a commission addressed by us to you, to the like effect, and containing the like powers and authorities for inquiry touching the waste lands, the property of the Crown, in each such province or island respectively as are hereinafter contained. Know ye therefore, that we, reposing great trust in your zeal, ability, and discretion, have nominated, constituted, and appointed, and by these presents do nominate, constitute, and appoint you, the said Charles Buller, to proceed with the utmost dispatch to inquire into the past and present methods of disposing of waste lands, woods, forests, and other domains and hereditaments, the property of the Crown, in our province of Lower Canada, and to collect information respecting the operation thereof in regard to the advancement of our said province, and in particular to the promotion of emigration thereto from the mother country. And our further will and pleasure is, that you, after due examination of the premises, do and shall, as soon as conveniently may be, report to us, under your hand and seal, what you shall find touching or concerning the premises upon such inquiry as aforesaid ; and

also, that you shall suggest such alterations or modifications of the laws and regulations at present in force as may appear likely to promote the objects aforesaid. And for the better discovery of the truth in the premises, we do by these presents give and grant to you full power and authority to call before you such and so many of the officers of the Crown lands' department, and agents for emigrants in our said province of Lower Canada, and such other officers of the Crown, and other persons, as you shall judge necessary, by whom you may be the better informed of the truth in the premises, and to inquire of the premises and every part thereof, by all other lawful ways and means whatsoever. And we do also give and grant to you full power and authority to cause all and singular the officers aforesaid in our said province of Lower Canada, or any other person or persons having in their custody any records, orders, regulations, books, papers, or other writings relating to or in anywise connected with the premises, to bring and produce the same before you. And for your assistance in the due execution of this our commission, we do hereby authorize you to nominate and appoint such person or persons as you shall think fit to be assistant commissioner or assistant commissioners, for the purposes aforesaid, or any of them, and to delegate to him or them such and so many of the powers hereinbefore vested in you as may seem expedient. And our will is, and we do hereby direct and ordain, that the person or persons so nominated by you shall possess and exercise any powers and authorities so as aforesaid delegated to him or them in as full and ample a manner as the same are possessed, and may be exercised by you under the authority of these presents : And we do hereby further authorize and empower you, at your discretion, to appoint such person as secretary to this our commission as to you shall seem proper, and to frame such temporary rules, orders, and regulations with regard to the manner of disposing of such Crown lands in our said province of Lower Canada, as may to you appear expedient, and from time to time, at such like discretion, to alter and vary the same, due regard being had in all such rules, orders, and regulations, to any provincial Act or Acts, and to any Royal instructions now in force in our said province of Lower Canada, touching or concerning the disposal of the said waste lands, or any part thereof : And we do hereby further authorize and empower you to give instructions to the several officers of the Crown lands' department and agents for emigrants, in our said province, as to the performance of the duties of their respective offices ; subject nevertheless, to all such provincial Acts or Royal instructions as aforesaid,

which instructions shall be in all respects binding upon the officer or officers to whom the same shall be respectively addressed. In testimony whereof we have caused these our letters to be made patent, and the great seal of our said province of Lower Canada to be affixed thereto.

Witness our right trusty and right well-beloved John George Earl of Durham, Viscount Lambton, &c. &c., Knight Grand Cross of the Most Honourable Military Order of the Bath, one of our most honourable Privy Council, and Governor-general, Vice-admiral and Captain-general of all our provinces within and adjacent to the continent of North America, &c. &c. &c.

At Our Castle of St. Lewis, in Our City of Quebec, in Our said province of Lower Canada, the 18th day of June, in the year of our Lord 1838, and in the first year of Our reign.

(signed) *D. Daly*, Secretary.

CIRCULAR DESPATCH from his Excellency the Governor-general to the respective Lieutenant-Governors of Her Majesty's Colonies in North America.

Castle of St. Lewis, Quebec, 18 June 1838.

Sir,

In the exercise of the powers vested in me as Governor-general of Her Majesty's colonies in North America, and with a view to the permanent establishment of an improved system in the disposal of waste lands, the property of the Crown, in those colonies, and the promotion of emigration thereto upon the most extensive scale that circumstances will admit, I have prepared a commission, directing an immediate inquiry into the subject for each of the provinces and islands comprised in my general government; and also authorizing the commissioner therein named to issue temporary rules and regulations for the disposal of Crown lands in each colony, and to give instructions to the officers of the Crown lands' department as to the performance of their duties.

I enclose the commission as prepared for the province of and have to direct that you will cause the great seal of that province to be immediately affixed thereto, and that the commission, together with a copy of this despatch, may be published in the usual manner.

As one of the incidental, though not least desirable, results of an improved system in the disposal of lands, the property of the Crown, may, I hope, be a very considerable increase in the value of all lands which have become private property, and

as the expectation of such a result might lead to applications for grants of land, upon the terms now in force, to such an extent as should defeat, or at least seriously impede, the most beneficial operation of the improved system, and especially the very desirable result above mentioned, I have also to instruct you that, until further directions from me, you will, so far as it may be in your discretion, under any provincial Act, or Royal instructions, or otherwise, abstain from alienating any waste lands, the property of the Crown. You may rely on receiving those further directions in so short a time as to prevent any inconvenience from the present suspension of your discretionary powers in this respect.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 4 July 1838.

My Lord,

The state prisoners sailed this morning in Her Majesty's ship Vestal, for Bermuda.

At 1 P.M. I intend leaving Quebec for the Upper Province, accompanied by Vice-Admiral Sir C. Paget.

Sir J. Colborne went on Monday last, the 2d, and will meet me either at Montreal or Kingston.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Montreal, 6 July 1838.

My Lord,

I have the honour to inform your Lordship that I arrived here yesterday, and landed this day at noon, accompanied by Vice-Admiral Sir Charles Paget.

I am happy to be able to assure your Lordship that nothing could exceed the cordiality, I may say enthusiasm, with which I was received by all ranks and classes. The streets were filled with crowds, who greeted me with the loudest cheers. This reception has afforded me the truest pleasure, because it was at Montreal where I might have expected marks of coldness or disapprobation, on account of the recent ordinances, in the event of party feeling predominating over sound policy.

I met, however, with no trace of opposition, either amongst the people or the merchants.

After my arrival at the Government-house I received a deputation, composed of upwards of 200 of the most respectable inhabitants of Montreal, who presented to me an address, of which I enclose your Lordship a copy, together with my answer.

I subsequently had the honour of a visit from the Catholic bishop and his clergy.

I shall remain here until Monday, when I expect to hear from Sir John Colborne, who is at Kingston, to which point of the frontier he wishes me to direct myself in the first instance.

Lower Canada is perfectly free from internal troubles, and her frontier is not menaced by the Americans; but Upper Canada, by the last accounts from Sir George Arthur, is in a very unsatisfactory state, both as to domestic dissensions and border incursions. I am anxious, therefore, to proceed there as soon as possible.

I have, &c.

(signed) *Durham.*

(Enclosures.)

To His Excellency the Right honourable John George Earl of Durham, Viscount Lambton, &c. &c. Knight Grand Gross of the Most honourable Military Order of the Bath, one of Her Majesty's Most honourable Privy Council, Vice-Admiral and Captain-General of all Her Majesty's Provinces within and adjacent to the Continent of North America, &c. &c. &c.

May it please your Excellency,

We Her Majesty's dutiful and loyal subjects, inhabitants of the city of Montreal and its vicinity, respectfully congratulate your Excellency on your safe arrival in this country.

We gratefully acknowledge the wisdom and beneficence of our beloved Queen in having confided, at this important period, the government of British North America to a nobleman, whose high and varied qualifications had been honoured by so many distinguished marks of royal favour; and we have witnessed with lively satisfaction the judgment, firmness, and impartiality evinced in the declarations of your Excellency's intended policy.

We cherish no other ambition than that of promoting the welfare of all classes of Her Majesty's subjects in these provinces, and perpetuating the integrity of the empire; and we beg to assure your Excellency that we will heartily co-operate in the arduous, but not impracticable task, of establishing

peace and harmony in this province, by means of a consistent and impartial administration of the Government.

We look forward with much solicitude to the results of your Excellency's high mission, and we venture to entertain the pleasing hope, that you will ultimately reap a rich reward, in the gratitude of a united people, and in the approbation of a discerning sovereign.

Montreal, 13 June 1838.

Answer.

Gentlemen,

I am deeply sensible of your kindness, and acknowledge with feelings of pride and satisfaction the flattering terms in which you are pleased to notice my public services.

They are, and ever have been, freely tendered to my sovereign and my country. I now offer them to you, in the humble hope that, with your co-operation, I may be enabled to restore peace and prosperity to the Canadas.

The task is arduous, as you state, but not impracticable; more especially after the wise and judicious course which you have pursued. On my part, I promise you an impartial administration of the government. Determined not to recognize the existence of parties, provincial or imperial, of classes or races, I shall hope to receive from all Her Majesty's subjects those public services, the efficiency of which must ever mainly depend on their comprehensive nature.

Remember that you have all the same interest in the prosperity of your country; that the capital of the merchant and the estate of the seigneur, the skill of the artisan and the labour of the habitant, are alike depreciated by internal dissensions, whilst they are fostered and increased by harmony and public tranquillity. Follow up, therefore, the good work you have commenced; extend the veil of oblivion over the past; direct to the future your energies, (and where are to be found energies equal to those possessed by British merchants ?), and the consequences cannot be doubtful.

I will second you to the best of my abilities; and I trust that the result of our united efforts will be, to render the North American colonies as distinguished for the wisdom of their institutions, and the good conduct of their people, as they are for the magnificence of those gifts and resources which a bounteous Creator has bestowed on their territories.

Extract of a DESPATCH from the Earl of Durham, to Lord Glenelg.

On Lake Ontario, 12 July 1838.

I left Montreal on the 10th, and arrived at Kingston late on the following night, having passed through the Thousand Islands, where, as we subsequently learnt at Kingston, the pirate Johnson, who burned the Sir Robert Peel, was still lurking. We, however, saw no signs of him or his gang. These islands are admirably suited to his purpose; they are nearly 1,800 in number, uninhabited, rocky, covered with wood, and so close together, that the steamer, in passing, almost touches the overhanging trees; concealment therefore is easy, and the passage from one to the other in light canoes, practicable from one end to the other. The pursuit, consequently, in row-boats by Her Majesty's Naval Officers, of such a man as Johnson, is little likely to be successful, as far as his capture by them is concerned. The moral effect, however, of this river-cruising by Her Majesty's naval forces is very great, and Captain Sandom assures me that already confidence is reviving on our banks of the river, and trade resuming its usual course.

When at Kingston, as I before stated, Captain Sandom received a report from Lieutenant Leary, who commands one of the schooners on the St. Lawrence, stating that Johnson had been seen in one of the islands on the evening of the 10th, the day before we passed, and that he was in close pursuit of him. It is so important that the insecurity, caused by his presence in the Thousand Islands, should cease, that I intend, if he is not shortly captured, to declare all the islands under martial law. This step would affect none but himself and his companions, for the islands are not inhabited.

Kingston is a highly important station, both in a commercial and a military point of view. It will be the depôt of all the trade from the west by the St. Lawrence, and the Rideau Canal and the Ottawa, to Montreal and Quebec, and its harbour is excellent for ships of any size.

I am happy to say that at every town where I have stopped, I have been most warmly and cordially received; and that nothing can be better than the feeling hitherto evinced.

DESPATCH from the Earl of Durham, to Lord Glenelg.

Niagara, 16 July 1838.

My Lord,

We made Fort George early on the morning of the 13th, and proceeded up the Niagara river as far as Queenston, where I found Lieutenant-general Sir John Colborne. We then left the steamer, and rode on to Niagara, where we found the 43d regiment encamped. In the afternoon Sir George Arthur arrived, and confirmed the report which Sir John Colborne had already made to me, that the decided measures lately taken had produced the best possible effect, both on our own population and the Americans. The rapid movement and transfer, by our own steamers, of the 43d from Montreal to Niagara, their encampment there, with artillery, and the presence of the highest civil, naval, and military authorities, are such convincing proofs of earnestness of purpose, as well as of efficiency of means, that the impression produced on both sides is great and salutary.

On the following day we proceeded to Fort Erie, passing by Navy Island, and along the bank of the river where the late inroads from the American side took place. Opposite to Fort Erie, immediately on the lake, is the town of Buffalo, the head-quarters of the robbers and pirates who have so long infested this country. Its extent and appearance is surprising; the size and respectability of the buildings, and the number of masts which I could discern in the harbour, prove the value of the commerce, and the wisdom of the arrangements which have thus created in about ten years a city in the midst of the wilderness.

This prosperity is owing to the Erie Canal, which commences at Buffalo, and thus makes it the depôt of all the trade of the West flowing to New York.

All these advantages might be ours by the judicious application of not a large expenditure. The Welland Canal, which commences at the Grand River in Lake Erie, and strikes the Lake Ontario a few miles west of Fort George, has great advantages over the Erie Canal; it is open three weeks earlier in the spring, and connects the two lakes by a short passage.

If this canal was completed, and the St. Lawrence Canal, the water communication by the Lakes, the Rideau Canal, and the St. Lawrence, to the sea by Montreal and Quebec, would be complete, and all that immense trade which now flows from the west by Buffalo, and the Lockport and Grand

Canals to New York, would pass through our provinces, and enrich all the towns and districts through which it was carried.

This is not a speculation of mine, but is an admitted fact by the Americans themselves; the knowledge of which leads the merchants of Buffalo to encourage these border inroads, which disturb the peace of our provinces, and prevent our attention being directed to objects which involve their complete ruin.

I enclose your Lordship an American paper, published at Oswego, in which you will find all these important considerations, to which I have briefly adverted, treated at length. I quote it for the value and correctness of its commercial anticipations, setting aside all reference to the military speculations which it contains.

I feel so strongly the importance of this subject, both as a means of restoring tranquillity to the Canadas, and of blessing the North American provinces with a degree of prosperity which has never yet been afforded them, that I feel it my duty to press it on the immediate attention of Her Majesty's Government.

I would ask of them a grant of money, to be issued on the same principles and securities as those which regulate the assistance given to harbours, railroads, canals, and other public works in England. The interest of the money advanced could be satisfactorily ensured, and I feel certain that the value of the tolls would very soon be so great that the principal would be speedily repaid. I believe, my Lord, I am not too sanguine when I assert that such a step taken would at once put an end to all discontents and disturbances in the Canadas. The Americans would see that their chances of acquiring these provinces, by holding out the temptation of a prosperity which our supremacy does not afford the Canadians, were at an end, and would discontinue their intrigues on our frontiers, whilst the inhabitants of our North American colonies would find in the increase of trade and wealth which must flow in, pursuits and occupations which would leave them neither the leisure or the desire for political agitation, or traitorous conspiracies.

On our part, we should by the judicious application of this loan, spare all the immense expense of our army and fleet, and of the volunteers and militia.

I again express my earnest conviction that the measure I recommend is, for the reasons which I have adduced above, founded on the best considerations of economy, tranquillity,

and security for the present and the future; and as such I humbly submit it to the decision of Her Majesty's Government.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Toronto, 19 July 1838.

My Lord,

On the 17th I reviewed the troops stationed at Niagara, the 43d regiment, and the detachments of the dragoon guards, artillery, and 24th regiment. Notice of this had been given some days previous, and the ground was crowded by many hundred Americans, who came from Buffalo and other parts, to witness the spectacle. The object which Sir J. Colborne and myself had in view was fully answered, and the effect produced on their minds by the discipline and appearance of the troops, as well as the precision of their movements in the field, was as great and salutary as could be desired. I entertained afterwards at dinner the commanding officer of the American troops at the opposite station, and all those of his countrymen whom he thought proper to present to me, together with the chief British inhabitants of the district. I am happy to say that they all informed me of the existence of the best feeling towards England amongst the respectable classes of Americans, and that a re-action was rapidly taking place even amongst those who had hitherto encouraged the late disturbances.

This latter result is, no doubt, owing to the decisive measures we have taken of late, and the efficient military and naval forces we have so rapidly concentrated on this point. But whatever may be the cause, the effect is most satisfactory.

On the 18th I left Niagara, have received two addresses and returned an answer, of which I enclose your Lordship a copy. I then visited Port Dalhousie, at the entrance of the Welland Canal in Lake Ontario, and arrived at Toronto at four o'clock. I was received by the Lieutenant-governor, Sir George Arthur, the mayor and corporation, all the authorities of the town, and a very large concourse of the inhabitants of the district. My reception was as warm and enthusiastic as at any other part of the provinces. On the following day I

received the principal and most influential persons of the province, and was presented with addresses, of which I enclose your Lordship copies, together with my answers. To-day I return to Kingston, and from thence shall proceed direct to Montreal.

I have, &c.

(signed) *Durham.*

(Enclosures.)

To his Excellency John George, Earl of Durham, Viscount Lambton, &c. &c. Knight Grand Cross of the Most honourable Military Order of the Bath, one of her Majesty's Most honourable Privy Council, and Governor-General, Vice-Admiral, and Captain-General of Her Majesty's Provinces within and adjacent to the Continent of North America, &c. &c. &c.

May it please your Excellency,

We, the undersigned magistrates, clergy, members of the bar, and others, inhabitants of the town of Niagara and its vicinity, beg leave respectfully to congratulate your Excellency on your safe arrival in British North America, and to express our unfeigned gratitude to our beloved Sovereign for the gracious consideration manifested in the appointment of your Excellency at this eventful period, to the government of this portion of the British dominions, convinced that the exalted station, constitutional knowledge, and private virtues of your Excellency pre-eminently qualify you for the discharge of so dignified and important a trust.

In cordially welcoming your Excellency to the frontier of Upper Canada, we beg leave to assure your Excellency of our undiminished attachment to the revered institutions of that glorious empire of which it is our boast to form a component part; and although political disquietude has for a time checked the hitherto rapid advancement of this noble province, we abstain from further allusion to so painful a topic, conceiving that the true interest of all in the benevolent objects of your Excellency's mission can alone be promoted by merging every feeling of political animosity in our ardent and generous efforts for the restoration of that peace and harmony so essential to our future welfare.

We confidently indulge the inspiring hope, that under the vigorous and impartial administration of your Excellency's Government, our country may yet realize our most fondly cherished anticipations of general prosperity.

In imploring the Divine blessing on the arduous task which

your Excellency has so nobly undertaken, we fully appreciate the disinterested motives that impelled you, at this important crisis, to lend your powerful aid in preserving inviolate the untarnished glory of Britain's national honour; and no doubt exists in our minds that the labours of your Excellency will result in the perpetuation to us of those benefits we enjoy from our connection with Great Britain, and shed a still brighter lustre on the proud eminence which your Excellency so deservedly occupies in the estimation of our Sovereign and the British nation.

To his Excellency the Right honourable John George, Earl of Durham, Viscount Lambton, Governor-General of Her Majesty's Provinces in North America.

May it please your Excellency,

We, the undersigned inhabitants of the town of Niagara and its vicinity, Upper Canada, beg leave to approach your Excellency, and in honest and sincere conviction, in the plain unsophisticated language of truth, to assure you that we hail the arrival of your Excellency as Governor-in-chief of these provinces as the brightest day that ever dawned on the Canadas.

If, Sir, aught could add to the influence of your far-sounding fame, of your own personal and intrinsic merits, it is, that you are the especial appointee of our gracious and beloved Queen. Sir, you have arrived amongst us at an awful and mysterious crisis, involving alike the honour of Britain and the fate of the Canadas. Sir, in your proclamation bearing date the 29th day of May last, you declare that the disturbers of the public peace, the violators of the law, will find in you an uncompromising opponent; we, Sir, on our part, respond to this your resolve. We hereby pledge ourselves to support you in the discharge of your arduous and important duties, with all our energies, physical and moral. We call on you for no pledge; we ask of you no promise. Placed as you are by your rank and station in life above the temptation of emolument, staking as you do your past political fame upon the present cast, bearing in mind that the eyes of all nations are fixed upon you, we have a sufficient guarantee that you can be influenced by no impure, no selfish motives; that you can harbour no unworthy, no sinister design, but that you are solely actuated by the laudable ambition of doing good.

In uttering these sentiments, we feel confident that we express the sentiments of the whole province, or, if there be

exceptions, that they are confined to those who think that the happiness of the many should be sacrificed to the interests of the few: with such your Excellency holds no communion. We have now only to add our prayers that the Almighty may extend to you that aid which He never withholds from the deserving, and without which the arm of the most powerful is but as a broken reed.

Niagara, 21 June 1838.

Answer.

I feel very grateful to the inhabitants of Niagara for the cordial and friendly addresses with which they have greeted my arrival at this portion of my general government.

I have come here accompanied by the commanders-in-chief of Her Majesty's forces, for the purpose of inspecting the arrangements which have been rendered necessary on these frontiers by the incessant attacks of robbers and pirates. The lawless proceedings of these outlaws shall no longer continue; their speedy repression is the duty of the Government, and shall be performed. Her Majesty's peaceful subjects must not be called upon at every hour to leave their homes and their properties for the defence of the public peace.

We have ample means for the apprehension and punishment of all who dare to violate the law, and disturb the public tranquillity, and they will be speedily and summarily put in execution.

But these are not alone the duties which I have to perform; others of a higher cast devolve upon me. As Her Majesty's High Commissioner, I must propose to Her Majesty's Cabinet measures which may place on a sure foundation the welfare and prosperity of the North American Provinces. I do not for a moment doubt that I can effect this object, if I meet with the co-operation of all parties and classes.

I am happy to say that wherever I have been, in both provinces, this general aid has been tendered me. Party animosities have been softened or suspended, and the general welfare has been preferred to personal and selfish considerations. To you, and to all who have thus patriotically come forward, I tender my best thanks, and accept your assistance and support as the surest encouragement which I can receive in the execution of the important mission confided to me by my Sovereign.

To His Excellency the Right honourable John George Earl of Durham, Viscount Lambton, &c. &c., Knight Grand Cross of the Most honourable Military Order of the Bath, one of Her Majesty's Most honourable Privy Council, and Governor-General, Vice-Admiral, and Captain-General of all Her Majesty's Provinces in and adjacent to the Continent of North America, &c. &c. &c.

We, Her Majesty's dutiful and loyal subjects, the Clergy of the Established Church of Upper Canada, beg leave to approach your Excellency with our cordial and sincere congratulations on your safe arrival in this province. A few weeks have only passed since your Excellency commenced the arduous duties of your exalted mission, and yet experience already justifies our confidence in your wisdom and ability, and calls forth our gratitude to our beloved Sovereign, for having selected for the government of British North America, at this important crisis, a nobleman so well qualified to maintain the dignity of the empire, and the character of Her Majesty's representative.

Deeply engaged in the duties of our sacred profession, and in strengthening the cause of order by our daily prayers and activity in diffusing religious knowledge and those principles of piety, loyalty, and obedience to the laws, for which the Church of England has ever been distinguished, we beheld with joy her rapid progress in the wilderness, notwithstanding the many difficulties which she has to encounter, and our hearts are encouraged with the hope that under your Excellency's kind auspices these difficulties will be gently removed, without detriment or just cause of offence to any other denomination, and that under the nursing care of our beloved Queen, and in accordance with your Excellency's counsel, this magnificent province will, in a short time, be filled with churches and congregations, and a numerous clergy ever prepared to support the cause of social order, and to maintain our connection with the parent state.

Cherishing no other ambition than that of promoting the temporal and spiritual happiness of our people, and living in peace and harmony with our fellow-subjects, we fondly anticipate the greatest blessings from your Excellency's government, and earnestly hope that its remembrance may be embalmed in the grateful hearts of future generations.

That Almighty God may take your Excellency into His holy keeping, and enlighten your mind with the spirit of wisdom, is the fervent prayer of the Clergy of Upper Canada.

Answer.

I beg that the Clergy of the Established Church will accept my best and most respectful acknowledgments for this testimony of their confidence in me.

Such a tribute coming from so venerable a body is most gratifying. Deeply convinced as I am that states as well as individuals must prosper, and deserve to flourish in proportion as their conduct is actuated by the principles of pure religion, I shall always deem it a sacred duty to afford its ministers every encouragement in the exercise of their holy calling, knowing from long experience that their lives are scrupulously devoted to the practice of the tenets which they inculcate, and to the unwearied propagation of the eternal truths of Christianity.

To his Excellency the Right Honourable John George Earl of Durham, Viscount Lambton, Knight Grand Cross of the Most honourable Military Order of the Bath, one of Her Majesty's Most honourable Privy Council, Vice-Admiral and Captain-General of all Her Majesty's Provinces within and adjacent to the Continent of British North America.

May it please your Excellency,

We, Her Majesty's dutiful and loyal subjects, inhabitants of the city of Toronto and vicinity, respectfully congratulate your Excellency on your arrival at the seat of Government in the Province of Upper Canada.

The selection by our gracious and beloved Queen of a nobleman of your Excellency's exalted station and commanding talents to fill the high office entrusted to your Excellency in these extensive and important provinces, is a most gratifying proof of her Majesty's desire to maintain and advance the security and happiness of Her Majesty's loyal and devoted subjects in this distant portion of her dominions. Relying as we do in the most unreserved and cordial manner on that integrity of purpose for which your Excellency's public life has been so eminently distinguished, and fully convinced that your Excellency will foster and encourage the noble British feeling that animates the people of this province, we do not hesitate to assure your Excellency, not only as respects ourselves, but on behalf of our fellow-subjects in every part of Upper Canada, a cordial and generous support in whatever measures your Excellency may devise or adopt, having for their object the welfare of all classes of the community. And we earnestly pray, that when your Excellency shall re-

tire from the deeply important duties with which you have been entrusted by our Sovereign, you will long live to enjoy the satisfaction of knowing that your benevolent and patriotic exertions in British North America have added to the prosperity, confirmed the peace, and increased the happiness of that portion of your Excellency's fellow-subjects over whom you have been appointed to govern, who now feel that their future destiny, as a portion of the mighty empire of which they are proud to form a part, is in a great degree dependent on your Excellency's measures.

Answer.

I thank you most sincerely for this kind and flattering expression of your sentiments.

You have well understood the feeling which animates Her gracious Majesty. Her anxious desire is to ensure the happiness and prosperity of all Her subjects; and late events must have unanswerably proved to you that for no portion of them has more solicitude been evinced, or protection afforded, than towards the inhabitants of Her Majesty's North American provinces.

They are some of the most precious ornaments to the Crown of Great Britain. Their eternal connection with that Crown should be the object of every British statesman who values the safety and prosperity of the empire.

All my measures shall tend to that end, and I am firmly convinced that, if I obtain your co-operation, and that of the other intelligent and influential communities which compose the North American Colonies, I shall succeed in obtaining for you all political institutions which shall contribute to the permanent security of persons and property, to the possession of all just rights and liberties, and to the incalculable advancement of that agricultural and commercial prosperity, the seeds of which have been too long suffered to lie dormant and uncultivated.

For this great object I have quitted my own country. If I succeed I shall consider no labour and no sacrifices as too onerous. All I ask is, that you will assist me by the abandonment of all party and personal considerations in effecting that which is for your general welfare and happiness.

To the Right Honourable the Earl of Durham, G.C.B., Governor-General of Her Majesty's Provinces of British North America, &c. &c. &c.

May it please your Excellency,

We, Her Majesty's dutiful and loyal subjects, the ministers

of the Wesleyan Methodist Church in Upper Canada, assembled in conference, avail ourselves of the opportunity afforded by our present annual meeting, most respectfully to approach your Excellency with sincere congratulation on your safe arrival at the seat of your Government, and with humble assurances of affectionate welcome, as Governor-general of Her Majesty's valuable provinces of North America, and High Commissioner to adjust all questions affecting the future form and administration of the civil government of the Canadas.

In these congratulations and assurances, we are confident that we likewise give utterance to the sentiments and feelings of nearly 800 congregations under our pastoral instruction in this province, including from 75,000 to 100,000 souls.

Associated as your Excellency's name has long been with all that is lofty and noble in mind, disinterested and energetic in character, patriotic and skilful in statesmanship, and popular in the institutions of Great Britain, we hail your Excellency's arrival in these provinces as an additional proof, if any were wanting, of the care and solicitude of our most gracious Sovereign, for the welfare and happiness of Her Canadian subjects. The sacrifice made by a nobleman of your Excellency's rank and fortune, and connections, in yielding to undertake the most arduous and difficult task assigned you by the Royal wish, while they awaken feelings best adapted to appreciate the difficulties which your Excellency may have to encounter, cannot fail to inspire the fullest confidence in the benevolence of your Excellency's intentions, and the equity of your prospective decisions.

While it is a matter of thankfulness to the inhabitants of these provinces, that they have the amplest security in your Excellency's principles and character, that the comprehensive powers with which your Excellency has been invested, will be exercised to purposes the most beneficent and wise, it will also be equally gratifying to your Excellency to know and feel that those powers are to be employed in behalf of a people, the great body of whom, as far as our knowledge extends in this province, are most anxiously desirous with your Excellency, "to strengthen and consolidate the connection between the parent state and these important colonies," a people who truly love the principles of the British constitution, and whose utmost wishes will be accomplished by the practical application of those principles in the administration of the Canadian government.

Most ardently and devoutly, therefore, will we, in our sphere, and to the best of our humble ability, and in obedience

to your Excellency's parental request, " unite in the blessed work of peace and harmony," trusting that your Excellency may be enabled, by the Divine blessing, to " lay the foundation of such a system of government as will protect the rights and interests of all parties, allay all dissensions, and permanently establish, under Divine Providence, the wealth, greatness, and prosperity, of which such unexhaustible elements are to be found in these fertile countries."

Taught by precept and example from infancy to " fear God and honour the King," it will continue to be, as it has heretofore been, our aim and employment to inculcate these essential duties upon the congregations committed to our care, whose universal determination and zeal in rallying to the maintenance and defence of the constituted authorities of the country during the late unhappy insurrection, have furnished the strongest possible proof that they yield to no class of Her Majesty's subjects in sentiments and feelings of loyalty to Her Majesty's person and government.

Our earnest prayer to Almighty God is, and will continue to be, that your Excellency may be protected, and guided, and prospered, in all your deliberations; " that all things may be so ordered and settled by your endeavours, upon the best and surest foundation, that peace and happiness, truth and justice, religion and piety, may be established among us for all generations;" and that when your Excellency shall have accomplished the objects of your benevolent mission, and shall have resigned the seals of your high offices into the hands of our Sovereign, you may enjoy the merited reward and elevated satisfaction of beholding in these provinces, a united, prosperous, and happy, as well as a loyal, people.

Answer.

I thank you most cordially for this gratifying manifestation of your sentiments. It is a source of honest pride to me to think that my public conduct has been such as to inspire you with confidence in my intentions and actions.

My earnest desire is to render indissoluble the connection between Great Britain and the North American provinces; to encourage, to the fullest possible extent, the practice of religion; to consolidate the rights and liberties of all classes, and to ensure permanent prosperity to agriculture and commerce.

Your co-operation and that of the congregations entrusted to your charge, will be of great assistance to me in effecting these objects, and will, I know, be afforded me in furtherance

of those principles of true patriotism which have ever governed your conduct.

DESPATCH from the Earl of Durham to Lord Glenelg.

Prescott, 20th July 1838.

My Lord,

Having landed at Kingston for a short time, to receive an address from the inhabitants, I met there Lieutenant Leary, who commands one of Her Majesty's schooners in the St. Lawrence, who reported to me that he had, a few days before, captured on one of the Thousand Islands, on the American side, two of Johnson's men with a quantity of arms and ammunition; Johnson himself managed to escape. In pursuance of an agreement with the American commanding officer, the prisoners and the arms, having been taken on American territory, were delivered up to the United States' authorities.

In my way to this place I passed close to French Creek, the head-quarters of Johnson and his gang, within 100 yards of the town, and saw at Wells' Island the wreck of the Sir R. Peel steamer; no attempt was offered to molest or annoy us.

To-morrow I shall go down the Long Sault Rapids, which will enable me to judge of the advantages to be derived from the St. Lawrence Canal, which begins at Long Sault Island, and ends at Cornwall. I understand that 50,000*l.* is only required for its completion, and that then the water communication between Lake Ontario and Montreal will be uninterrupted.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Montreal, 24th July 1838.

My Lord,

I arrived here this day, having passed down all the rapids of the St. Lawrence, and personally inspected the different canals which have been constructed for the improvement of the navigation of this noble river.

I have also visited the most important points of the Upper Province, both as regards internal disaffection and American in-

terference. Everywhere, in the most insignificant village as in the most populous town, I have been received with the utmost enthusiasm; in fact, in no part of England have I ever been more warmly greeted, or received more unequivocal marks of respect from all ranks and classes.

I announce this fact to your Lordship with much satisfaction, as it is an unerring mark of the feelings with which the measures, which I have adopted for the public good, have been regarded by the great majority of the inhabitants of the two provinces.

Having suffered much from the fatigue and excitement of this expedition, I shall return to Quebec for a few weeks' repose, and then proceed to visit the French districts and the eastern townships.

I have, &c.

(signed) *Durham.*

I have the honour to enclose an address presented at Coteau du Lac, together with my reply—*D.*

(Enclosure.)

To the Right honourable the Earl of Durham, Governor-General of British America, &c. &c. &c.

The Address of the Inhabitants of the Seigniories of Nouvelle, Longueuil, and Soulanges, in the County of Vaudreuil.

May it please your Lordship,

We, Her Majesty's most faithful, loyal, and devoted subjects, hail with infinite pleasure your Lordship's return to this province, as Her Majesty's Representative in this country; apart, however, from all other considerations, we are bound, in gratitude, to offer our most heartfelt thanks to your Lordship for the heroic and merciful conduct so recently and so nobly shown to our unfortunate countrymen.

Convinced, my Lord, as we are, that the strongest fortifications of Her Majesty are the hearts of Her people, and the most enduring attachment that of gratitude, we are confident (as, we trust, the result will prove), that your policy has not been more humane than wise, and that in the magnanimous oblivion of the past will be found the best security for the future.

As faithful and loyal subjects of Her Majesty, and anxious for the success of your Lordship's administration, we should fail in our duty were we to withhold our apprehension that

our connection with the mother country, so much desired by us, can only be endangered by the continuance of those feudal burthens we have so long and so patiently borne, as well as our conviction that, in the late rebellion, many were actuated by a desire to emancipate their suffering countrymen from exactions and oppressions unknown in any other part of the free and glorious empire of Great Britain.

That we have so patiently borne these oppressions may excite your surprise; but, as a statesman, your Lordship cannot fail to perceive the impossibility of our becoming an educated, an enterprising people, so long as these exactions and restraints exist.

We believe that feudal thraldom is incompatible with British institutions, commercial enterprize, or agricultural improvement; that capital, industry, and energy of character, must ever be aliens where that tenure prevails.

We beseech your Lordship, as a statesman, as well as benefactor, to examine our condition. Our confidence is in your integrity and justice. We will suggest no amelioration; and, if your Lordship should deem our feudal burthens not beyond human endurance, or human degradation, we are content that suffering shall continue the badge of all our race.

Coteau du Lac, 19th July 1838.

Answer.

I receive your kind congratulations with true pleasure. I feel happy to return to those who, like you, can justly appreciate my motives and actions.

I have exercised, in the Queen's name, one of Her Majesty's most glorious prerogatives, that of mercy, because I believed the great majority of your erring countrymen to have been deluded into a course of conduct repugnant to their real feelings and principles. The folly and criminality of these instigators having been exposed and punished, I trust I shall be spared the pain of ever again recurring to such deplorable events.

It will be the paramount duty of your countrymen to prove, by their future conduct, that I judged them aright. I have rendered myself responsible to my Sovereign for their loyalty; and I do not, for a moment, doubt that they will fully redeem the pledge I have given.

The grievances to which you allude have already attracted my attention, and I have taken steps to ensure their practical reformation, as alike required by sound policy and strict justice.

Extract of a Despatch from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 30th July 1838.

With reference to my appointments of the Executive Council having practically put an end to the Court of Appeal, I must observe it has done no such thing. On the contrary, the extreme absurdity of persons who have received no legal education sitting in appeal from decisions of the judges, has been a subject of general complaint in the province for many years. And as the right of every Executive Councillor, whether appointed by summons of the Governor, or by the higher authority of the mandamus of the Crown, to sit as a judge in the Court of Appeals had been established by a judicial decision in this province, by a reference to the law officers here, and confirmed by a reference to the Home Government in 1815, and by the opinion of the then Attorney-general, Sir William Garrow, and the Solicitor-general, Sir Samuel Shepherd, I determined, in compliance with what I believed to be the wishes of the public of this province, to give them as competent a Court of Appeal as my present situation would admit of.

With this view I abstained from summoning to the Court of Appeals those members of the Executive Council who had had no legal education, summoning, in addition to the two usual presidents (the chief justices of Quebec and Montreal), a judge of each Court, whom it is not my intention to summon to any other meetings of the Executive Council than those in which they sit judicially. I have reason to believe that this plan, as a temporary expedient, has met with general approbation. The Court has this day closed its July sittings, having disposed of many causes, some of them of great importance, with, I believe, more satisfaction to the public than any Court of Appeal which has sat for many years.

There seems to be much misapprehension in Parliament upon the subject of the two Councils: the Executive Council under the former and still existing law: and the Special Council created by the late Act as a substitute for the two inferior branches of the Legislature under the former constitution. This, however, will form the subject of a future despatch.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 30 July 1838.

My Lord,

I trust in a few days to be enabled to transmit to you a report on the state of Lower Canada.

This communication has been alone delayed by my journey into the Upper Province, and has become more than ever necessary in consequence of the statement made by Lord Gosford in the House of Lords as to the limited extent of the disaffection which in his opinion existed.

I regret to say that, from the information I have received, and the observation I have personally made, I am warranted in coming to a directly opposite conclusion.

The disease was general, not partial, and its recurrence can alone be prevented by the most decisive remedies.

I have, &c.

(signed) *Durham.*

EXTRACT of a DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 31 July 1838.

I have had the honour to receive your Lordship's despatch of the 9th of May requesting me to take into consideration the claim, made upon Her Majesty's Government, by the British North American Land Company, for a modification of the terms of their original agreement; and further desiring that I should report to you my opinion on the subject.

I have, consequently, endeavoured to make myself acquainted with all the circumstances of the case, and especially with such as bear upon the application of the company; and it is now my duty to inform your Lordship, that in my opinion it would be inexpedient, with a view to the public interests of this colony, and even unjust towards other purchasers of lands from the Crown, to comply with the desire of the company. I am also of opinion, without reference either to the public advantage, or to other private interests, that the claim of the company upon Her Majesty's Government has no reasonable foundation.

The grounds upon which I have arrived at these conclusions may be briefly stated. In the first place, as respects the public advantage, evils of the most serious nature have arisen in this province from a practice, which seems to have pre-

vailed at all times, of neglecting to enforce the conditions upon which waste land had been granted by the Crown. In order to prevent similar evils in future, and especially in order to set on foot a comprehensive measure of colonization in British North America, which is of the highest importance with a view to the political condition, as well as to the individual benefit of the inhabitants of British origin, it appears to me essential that provision should be made for the strict performance of the conditions, which have been or may hereafter be attached, to grants of public land; and such a provision will, I have no doubt, form a leading feature of any general plan that I may be induced to recommend in consequence of the labours of the Commission of Inquiry respecting Crown Lands and Emigration, which I have recently appointed. For a more particular statement of the views with which I have instituted that inquiry, I beg leave to refer your Lordship to my despatch of the 29th June; but may assert here, that those views comprise no other objects, but such as relate to the advantage of individuals and of the public in these colonies. I repeat, that for the accomplishment of those important objects it appears to me indispensable, that the performance of conditions attached to grants of lands should be strictly enforced; and in pursuance of this conviction, I have just directed the Crown Lands' department in this province to require from the holders of land purchased from the Crown, but whose instalments are in arrear, the immediate payment of all sums that remain due. With what grace, therefore, could I recommend an exceptional indulgence in favour of the British North American Land Company? By doing so I should, as it were, stultify the rest of my own proceedings as to the disposal of Crown lands, and should certainly do that which would tend to defeat their object. For let me assure your Lordship that, in respect to the disposal of Crown lands, it will be difficult to persuade the people of this country to rely upon the observance of any rule that may be laid down. This assertion is sufficiently illustrated by a single fact. By the Treasury Instructions of 1826, it was determined that, with certain unimportant exceptions, free grants of land in this Province should thenceforth cease, and that in future public land generally should be disposed of by sale only. These instructions were confirmed and further enforced by those of Lord Ripon in 1831. Yet, what has actually occurred? Sale by auction was to be the rule; whereas, since 1826, more land has been disposed of by free grant than by sale. So numerous have been the exceptions to the rule, that, in truth, there has been no rule; or

rather, the exceptions have become the rule. It is but natural, therefore, that Her Majesty's subjects in this colony should be incredulous, as to the observance of any rule. To grant the application of the British North American Land Company, would be to add another, and a very remarkable case, to the vast mass of cases in which the Government has virtually set aside its own rules and regulations, and counteracted its own deliberate proceedings; and on this account alone, having reference to the objects which I hope to see accomplished by a very different system in the disposal of Crown lands, I should have the strongest objections to admit the claim of the company.

But, in the next place, even if it had not appeared to me so inexpedient, on the grounds above stated, for the Government to abandon important conditions, which they had deliberately required, still I should have felt that, by granting such favour to the company, and insisting upon the performance of conditions with regard to other purchasers of land, Her Majesty's Government would expose themselves to a well-founded charge of partiality and injustice. The ground upon which the company claim indulgence as to the payment of their purchase-money is, that they are entitled to compensation for losses sustained through the hostility of the late House of Assembly to their undertaking, and the recent political state of this Province. It appears to me, however, considering the dislike which for years past the Canadians have evinced to projects of British Colonization, that such hostility on the part of the House of Assembly might have been foreseen; and I have little doubt that it was to some extent aggravated by the company themselves, in appointing, as their first commissioners, two gentlemen who had taken a very conspicuous and decided part in the politics of the Province. The House of Assembly, moreover, seem to have been hostile to every sort of British enterprize, and it is certain that all British subjects who had embarked capital here, have suffered more or less from recent political events.

If the principle were admitted of a right to compensation for losses arising from the hostility of the House of Assembly, or the recent political state of the country, there would be no end to claims similar to that made by the company. The admission of such a principle would, as it strikes me, lead to endless mischief; and if the principle be not admitted, then it is impossible to comply with the wish of the company, except as a matter of favour, that is, without injustice to others from whom similar favour should be withheld. Such partiality

could not but occasion discontent, nor fail to prove injurious to the company in the long run, by increasing the jealousy with which, even amongst the people of British origin, the terms of their purchase have been regarded. For I need scarcely remind your Lordship that the original agreement with the company was exceptional from the general system, and exceptional in their favour. Instead of being subjected to the competition of auction at the established upset price of the district in which their land is situated, they were allowed to appropriate an immense tract, consisting in part of Crown reserves, of the most valuable land in the Province, and for a price considerably below the average price then required from all other purchasers of Crown land in that district. I have never listened a moment to those, who would set aside the grant to the company. No member of the company can be more anxious than myself that the bargain to which the faith of Government was pledged, should be held sacred by the Government and Parliament. But whilst I would defend to the uttermost the rights of the company, I must also regard those of the public; and I believe that by doing so, by insisting on the performance by the company of their part of the agreement, the rights which they have acquired will be most effectually defended.

Convinced that such undertakings as that of the company are greatly for the advantage of this Province, as well as of the mother-country; being most desirous to promote the investment of British capital, and the settlement of a British population upon the naturally fertile wastes of Lower Canada; satisfied indeed that, except by this means, it will be scarcely possible to apply a permanent remedy to the political evils of the Province, I should have felt deep regret at being compelled, though by a sense of justice towards others, to recommend a course of proceeding, which was likely to impede the operations of the company, or so to diminish their profits as to discourage similar undertakings. But I have no such apprehension. The information which I have received from various quarters satisfies me that the company made an excellent bargain with the Government; that they have acquired a property, the value of which exceeds, even now, the amount of their purchase-money; and that, if the disposal of Crown lands in this Province be placed on an uniform system, with a view to emigration, and the settlement and improvement of the country, they will be able to re-sell their land at prices sufficient to yield a very high profit on their investment of capital. I am prepared to sustain this opinion by the most conclu-

sive of arguments. Supposing the company to entertain a different opinion, and to be desirous of disposing of their property in Lower Canada, without any other loss than may be due to an injudicious expenditure, I should recommend to Her Majesty's Government to assent to a proposal from them, for the resumption by the Crown of the land purchased by them. * * * * * * * * * * Believing that the land which has been sold to the company would, in the course of time, and under an improved system in the disposal of Crown lands, sell for a great deal more than they have agreed to pay, I am of opinion that terms favourable to them might be accepted with advantage to the public. * * * * If the company should be disposed to cede their property to the Crown upon some such terms, and if such a measure were agreeable to Her Majesty's Government, then I should recommend that an agent of the company be authorized to enter into and conclude an agreement with me here, where alone an accurate knowledge of all the circumstances of the case can be obtained, and, of course, that I should be authorized to enter into and conclude such an agreement on the part of the Crown.

In confirmation of the opinion here expressed, I wish to state that there is now before me an application, from gentlemen of known wealth and the highest respectability, for a grant of Crown land to the extent of 225,000 acres, in the immediate neighbourhood of the British North American Land Company's main grant, but not including any Crown reserves, upon the very same terms as those which were required from the company; and that, in consequence of my belief that such terms are not sufficiently favourable to the public, I have found myself compelled to decline the proposal. The chief ground upon which their application has been urged is, that a company, the stockholders of which reside in the colony, "should have the same advantages and facilities as those granted to the British North American Land Company."

EXTRACT of a DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 9 August 1838.

My Lord,

The information which my residence here has enabled me to obtain as to the condition of the two Canadas is of such a nature as to make me doubt whether, if I had been fully aware of the real state of affairs in this part of the world, any considerations would have induced me to undertake so very difficult a task as is involved in my mission. I do not, however, wish

it to be understood that I consider success impossible. On the contrary, I indulge a hope that if the difficulties and dangers that are now so apparent to me are appreciated by Her Majesty's Government, so as to lead to their adoption of measures sufficiently comprehensive and decided to meet the emergency, the objects of my mission may be accomplished. My sole purpose, therefore, in adverting to circumstances which threaten a different result is to impress upon your Lordship my own conviction, which has been formed by personal experience, that even the best informed persons in England can hardly conceive the disorder or disorganization which, to the careful inquirer on the spot, is manifest in all things pertaining to Government in these colonies. Such words scarcely express the whole truth: not Government merely, but society itself seems to be almost dissolved; the vessel of the State is not in great danger only, as I had been previously led to suppose, but looks like a complete wreck. It is needless to point out the wide difference between this representation and the opinions on the subject which were, and probably still are, held by Her Majesty's Ministers; but since one who had the benefit of whatever information they possessed is nevertheless compelled to acknowledge that the truth, as it now appears to him, differs so much from his previous conceptions of it, what can he infer but that distance has precluded them from acquiring an accurate knowledge of the whole subject? This is my belief, and it becomes, therefore, an imperative duty on my part to convey to your Lordship the exact impressions which I have derived from personal inquiry and observation. I will not shrink from the performance of that duty.

On the present occasion, however, I propose to confine myself to a particular class of circumstances; that is, to those which relate to the Lower Province, and are of the most unfavourable character; my object in making such a selection being to state without reserve, in a separate despatch, certain facts and opinions, to which, as coming from me, it is most inexpedient that any publicity should be given for the present; this despatch will therefore be marked "Secret."

The first point to which I would draw your attention, being one with which all others are more or less connected, is the existence of a most bitter animosity between the Canadians and the British, not as two parties holding different opinions and seeking different objects in respect to Government, but as different races engaged in a national contest.

This hatred of races is not publicly avowed on either side; on the contrary, both sides profess to be moved by any other

feelings than such as belong to difference of origin; but the fact is, I think, proved by an accumulation of circumstantial evidence more conclusive than any direct testimony would be, and far more than sufficient to rebut all mere assertions to the contrary.

If the difference between the two classes were one of party or principles only, we should find on each side a mixture of persons of both races, whereas the truth is that, with exceptions which tend to prove the rule, all the British are on one side, and all the Canadians are on the other. What may be the immediate subject of dispute seems to be of no consequence; so surely as there is a dispute on any subject, the great bulk of the Canadians and the great bulk of the British appear ranged against each other. In the next place, the mutual dislike of the two classes extends beyond politics into social life, where, with some trifling exceptions again, all intercourse is confined to persons of the same origin. Grown-up persons of a different origin seldom or never meet in private society; and even the children, when they quarrel, divide themselves into French and English like their parents. In the schools and the streets of Montreal, the real capital of the province, this is commonly the case. The station in life, moreover, of an individual of either race seems to have no influence on his real disposition towards the other race: high and low, rich and poor, on both sides—the merchant and the porter, the seigneur and the habitant—though they use different language to express themselves, yet exhibit the very same feeling of national jealousy and hatred. Such a sentiment is naturally evinced rather by trifles than by acts of intrinsic importance. There has been no solemn or formal declaration of national hostility, but not a day nor scarcely an hour passes without some petty insult, some provoking language, or even some serious mutual affront, occurring between persons of British and French descent. Lastly, it appears, upon a careful review of the political struggle between those who have termed themselves the loyal party and the popular party, that the subject of dissension has been, not the connection with England, nor the form of the constitution, nor any of the practical abuses which have affected all classes of the people, but simply such institutions, laws, and customs as are of French origin, which the British have sought to overthrow and the Canadians have struggled to preserve, each class assuming false designations and fighting under false colours—the British professing exclusive loyalty to the Crown of England, and the Canadians pretending to the character of reformers. Nay, I am inclined to think that the true principles and ultimate ob-

jects of both parties, taken apart from the question of race, are exactly the reverse of what each of them professes, or, in other words, that the British (always excluding the body of officials) are really desirous of a more responsible Government, while the Canadians would prefer the present form of Government, or even one of a less democratic character. I shall have more to say on this head presently, having mentioned the subject here only for the purpose of citing another fact which tends to prove the existence of a deep-rooted national sentiment on both sides. Such a contradiction between the real and avowed principles of each party, could not have occurred if all the people had been of one race, or if every other consideration had not given way to the sentiment of nationality.

This general antipathy of the Canadians towards the British, and of the British towards the Canadians, appears to have been, as it were, provided for at the conquest of the province, and by subsequent measures of the British Government. If Lower Canada had been isolated from other colonies, and so well peopled as to leave little room for emigration from Britain, it might have been right at the conquest to engage for the preservation of French institutions, for the existence of a "Nation Canadienne;" but, considering how certain it was that, sooner or later, the British race would predominate in the country, that engagement seems to have been most unwise. It ensured such a strife as has actually taken place; for, notwithstanding the division of Canada into two provinces, for the purpose of isolating the French, the British already predominate in French Canada, not numerically of course, but by means of their superior energy and wealth, and of their natural relationship to the powers of Government. It was long before the Canadians perceived that their nationality was in the course of being overridden by a British nationality. When the Constitutional Act bestowed on them a representative system, they were so little conversant with its nature, and so blind to the probable results of British emigration, that they described the constitution as a "machine Anglaise pour nous taxer," and elected to the House of Assembly almost a majority of Englishmen. But with the progress of British intrusion, they at length discovered, not only the uses of a representative system, but also that their nationality was in danger; and I have no hesitation in asserting, that of late years they have used the representative system for the single purpose of maintaining their nationality against the progressive intrusion of the British race. They have found the British pressing upon them at every turn, in the possession of land, in commerce, in the retail trade, in all

kinds of industrious enterprize, in religion, in the whole administration of government, and though they are a stagnant people, easily satisfied and disinclined to exertion, they have naturally resisted an invasion which was so offensive to their national pride. The British, on the other hand, impeded in the pursuit of all their objects, partly by the ancient and barbarous civil law of the country, and partly by the systematic opposition of the Canadians to the progress of British enterprize, have naturally sought to remove those impediments, and to conquer, without much regard to the means employed, that very mischievous opposition. The actual result should have seemed inevitable. The struggle between the two races, conducted as long as possible according to the forms of the constitution, became too violent to be kept within those bounds. In order to preserve some sort of government, the public revenue was disposed of against the will of the Canadian people represented by their Assembly. The consequent rebellion, although precipitated by the British from an instinctive sense of the danger of allowing the Canadians full time for preparation, could not, perhaps, have been avoided; and the sentiment of national hostility has been aggravated to the uttermost, on both sides, by that excessive inflammation of the passions which always attends upon bloodshed for such a cause, and still more by this unusual circumstance,—that the victorious minority suffered extreme fear at the beginning of the contest, and that the now subdued majority had been led to hope every thing from an appeal to force.

There seems to me only one modification of this view of the subject. The employment by the Canadians of constitutional and popular means for their national purpose, has taught some of them, consisting chiefly of the most active and able, higher political views than such as belong to the question of nationality. These men are not at heart friendly to the barbarous institutions of their ancestors, but would readily adopt a more enlightened system, if they could do so without losing their own importance. Their necessary dependence on the prejudiced mass has alone restrained them from joining in many of the views for the improvement of the country which are entertained by the British. They have also learned to estimate the practical abuses of Government which affect all classes, and to wish for many reforms without reference to Canadian nationality. They even had, to some extent, succeeded in disseminating their opinions amongst the mass of their countrymen, and they are not unlikely to play a valuable and distinguished part under any new system of government that may put an end to the strife between hostile races.

But, unfortunately, their number is so small as scarcely to affect my opinion of the temper of the Canadian people. Supposing my view of that subject to be correct, your Lordship will easily understand that the bulk of the Canadian people are as disaffected as ever, and that the British part of the population regard the Canadians with vindictive jealousy. The Imperial Government is distrusted by both parties; by the Canadians because they fear, or rather expect in gloomy silence, that advantage will be taken of their late rebellion to remove the very causes of dissension, by giving a British character to the institutions and laws of the province, so that there shall no longer be any serious impediment to British colonization and enterprize; and by the British, on the other hand, because they doubt whether the Imperial Government will ever sufficiently understand the state of parties here, to approve of the great changes which must inevitably take place, if another period of legislative strife, and perhaps another rebellion, are to be averted.

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And here I must notice a fact of great importance. The more discerning of the Canadians are perfectly aware that if the authority of the United States should ever extend to this country, whether by means of war or of a peaceful union, the peculiar institutions, and even the language, of French Canada would be extinguished as soon as possible; yet are they willing, with the exception perhaps of a considerable portion of the clergy, to incur the loss of all that they have held most dear, in order to gratify the sentiment of vengeance that has now got possession of them. I would not exaggerate the amount of the sacrifice that they are willing to make for the sake of revenge. It is right to add, therefore, that, in my opinion, they almost despair, come what may, of preserving those ancient usages and that distinct nationality, in defence of which they have struggled so many years.

But be this as it may, whether they are moved by a sentiment of mere vengeance, or by revenge mixed with despair, I am well convinced that an American invasion of this province would be highly acceptable to most of them.

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Satisfied of the disaffected temper of the Canadians as a people, I have naturally taken pains to acquire correct information as to the state of feeling in the United States as respects these colonies and the mother country. All reports concur in assuring me that the present government of the Union, and a vast majority of the American

people, are decidedly adverse to a rupture with England. Having already conveyed this assurance to your Lordship, I need not dwell upon it here; but there are points in the state of American feeling towards these colonies, and especially near the frontier, of so much moment as to require particular notice.

In the first place, although some persons in the States, and the more so if they have visited this country, are aware of the true nature of the late rebellion, it is a common opinion in America, that the contention in this province has been between the executive government on the one hand, supported by a minority, and the majority of the people, without distinction of race, on the other; and that the subject of disagreement has been, practical grievances, and general principles similar to those which formed the matter of dispute between England and her old colonies in America. As their fathers rebelled in defence of those old English charters of local self-government, which placed local taxation and revenue at the sole disposition of popular assemblies, so they think that the Canadian majority was justified in withholding supplies, and in resisting by force the violation of their constitution by the British Parliament. They believe, in a word, that the majority in Lower Canada has contended for the maintenance of popular rights, and that arbitrary government is the aim of the minority. The mistake is easily accounted for. It is only on the spot that one learns how the real subject of strife in Lower Canada has been a question of nationality; everywhere else, the false professions and designations employed by both parties, combined with the plain fact that the contest has been between a majority and a minority, is apt to mislead the inquirer, by keeping out of view the distinction of races. If the whole subject were understood by Americans, they would probably sympathize with those who are of the same origin as themselves, who resemble them in numerous particulars, and who seek objects which, if this country were under American rule, would be unhesitatingly accomplished, as similar objects have been attained in the Dutch colony of New York, and the French colony of Louisiana. There is no people under the sun to whom the feudal institutions and most defective civil laws of the Canadians would be more intolerable, than to the Anglo-Saxon race of the United States. But they have misunderstood the case. They have fallen into the not uncommon mistake of confounding means with ends. Believing that the means employed by the Canadians, in the Assembly, were constitutional and popular, and seeing that the British, being in a minority, necessarily clung

to the local executive, and the imperial authority; above all, regardless of the accident, (for so it may be termed with respect to the question of nationality) by which the Canadians happen to constitute a majority, Americans have supposed that the objects of both parties in the colony were of the same nature, respectively, as the means on which each party has relied. An ever active sentiment of national pride is, perhaps, the most remarkable feature in the American character. It might have been foreseen, therefore, that the Americans, proudly recollecting the origin and progress of their own revolutionary war with England, should sympathise with the Canadians, or rather with the majority, who happen to be Canadians. Whether they may ever comprehend the false position assumed by both parties in this colony, I will not venture to predict; but so long as their view of the subject shall remain unchanged, they will, I believe, continue to sympathise with that side which has the air of contending for democratic principles and popular objects, and to wish that it may prevail over the other, which appears in the light of an oppressive minority.

Secondly: Having regard to the national pride of America, it is certain that the temper and tone of the British party towards that country, tends to stir up angry passions throughout the Union, and especially near the frontier, where articles from the colonial newspapers are most generally reprinted. * * * * * * * * * Hitherto the national pride of America has not been deeply wounded by these means (and I do all in my power to mitigate the national influence of such affronts to it); but I am credibly informed that these unceasing attacks have not been without effect, and that they form a subject of growing irritation.

Thirdly: By the existence of a state of things out of which it is easy to see that a war might spring, the American mind becomes more and more familiar with the idea of war. Differing as the Americans do, from all other nations, in the universal diffusion of an active interest in public affairs, and in a habit which belongs to all ranks, of calculation as to the future, they are led, by the political state of these provinces, to discuss the subject of war hypothetically, if I may use the expression; they are reminded of the events of the last war, and one of them in particular, the capture of Washington, which inflicted a deep wound on the national pride; and by frequently conversing on such exciting topics, they gradually approach that state of feeling under which the government, necessarily impelled by the people, would find it hard to maintain friendly relations with England. * * * * * * * * * * *

Fourthly: It is not to be denied that the distracted state of

these colonies occasions no little inconvenience to the frontier states, and to the federal government ; it calls for an increase of the army, a sort of military array on the frontier, and the exercise of new powers by the executive, which are opposed to the habits, if not to the institutions, of the American people. All the expence and annoyance are attributed to the British Government. A dispassionate American admits that his government is bound, at whatever cost, to prevent aggressions on the Canadian frontier, and he does not deny that the obligation has been inadequately fulfilled ; but when reminded of the inefficiency of the laws for that purpose, and the weakness of the American executive, he answers that the true source of every difficulty is the weakness of the British Government in Canada, which has not maintained order amongst its own subjects, nor is able to protect the United States from such a nuisance as arises from the conduct of British refugees within their territory. This retort, without stopping to examine its justice, suffices to show that, until order shall be restored in these colonies, a great cause of irritation in America will probably continue to operate with increasing force.

Fifthly : The boundary question, being much mixed, as it unavoidably is in America, with considerations arising out of the state of these colonies, forms a more active element of hostile feeling than would otherwise have been the case.

Lastly : It is certain that, amongst the frontier population of the United States, which, I should observe, has very greatly increased since the last war, there exists a numerous body of men,—young, active, energetic, and self-relying,—who, from various motives, long for an opportunity of invading Canada. Some of them are moved by an opinion, which it would not be easy to question, that if these colonies were laid open to American enterprize, a great impulse would be given to the industry and trade of that part of the States which now constitutes the frontier ; some are influenced by one or other of the circumstances to which I have already adverted ; some by that love of adventure merely, which belongs to the American character ; and some by a reasonable calculation of the gain and distinction which, in troubled times, usually fall to the most active and daring. The manner in which these people talk of invading the Canadas exemplifies the self-reliance of American citizens. They do not expect that the federal government should open the way for them by military operations ; they even avow their belief that, in a contest of troops only, the British would surely prevail ; but they reckon upon the friendly disposition towards them of great numbers on this side, and upon swarming over the line in such numbers,

and at so many places simultaneously, as to get possession of the country in spite of military obstacles. I do not pretend to weigh such calculations, but state them as they have been reported to me. If I am not misinformed, it is well that I should remind Her Majesty's Government of the invasion of Texas by a body of American citizens, who, without the least aid from their government, have seized an extensive country, defeated armies, got possession of the soil, and established themselves as a nation, with constitutional government, a judicial system, and municipal institutions, as complete as any in America. There is certainly no immediate danger of such an attack upon these colonies; and I have mentioned the subject only for the purpose of indicating the probable character of the contest that would take place here, if all the causes now in operation should finally produce one. It was in consequence of all these important considerations that, during my late residence on the American frontier, I courted the most unreserved communication with all respectable Americans, for the purpose of impressing them with a more sound and accurate conception of the real state of things; with a more just appreciation of our system of government and its real objects; and with a due sense of the danger which would arise to themselves, if their government remained a passive spectator of all these proceedings, tending, as they did, to destroy all confidence in its executive strength, and all reliance on the national honour.

I am happy to say that my efforts have been successful; that a great change has taken place in public feeling on the American side; and that my exertions to restore tranquillity and good order, are encouraged and supported by the most influential portions of the press and of society in the United States.

Except as it has been noticed for the purpose of explaining the temper of the Canadians, and one of the causes of irritation in the United States, a most important subject yet calls for your Lordship's attention. I allude to certain feelings and views of the British section of Her Majesty's subjects in this province.

Your Lordship is already informed of the general satisfaction expressed by the British party at my having, when I assumed the Government, avoided connecting myself with the old body of officials. It may be supposed that the body in question did not participate in that sentiment. I very soon became aware therefore of the existence of some difference between the official body, and the British in general. Subsequent observation has convinced me that, except in their

common hostility to the Canadians, there is no sympathy between these two classes. * * * * * * * * * *

That this should be the case is really not surprising when one discovers how all the powers of Government have been neglected and abused for many years past in this colony. Not to go further back than the commencement of serious differences between the Canadians and British as such; since, when the two branches of the legislature have neglected their proper functions to pursue the contest between races, a long time has passed without any thing like beneficial legislation; and not a few of the many evils resulting from this perversion of legislative powers have, by a very natural mistake, been attributed to neglect and corruption in the Executive. At the same time it must be confessed, that the Executive has been both neglectful and corrupt. I need not remind your Lordship of those flagrant instances in which the Imperial Government has been led to interfere for the correction of administrative abuses, nor is this a fit occasion for entering on that subject in detail; but I am bound to add, that the Government of this province, including the administration of justice, has not obtained the respect of the people; and that, according to all my information, there has been ample ground for the distrust and suspicion with which authority is regarded.

This leads to another feature in the disposition of that portion of the British inhabitants which may be termed "independent." Their main object, as I have before explained, has been to remove the obstacles which the ignorance, the apathy, and the ancient prejudices of the Canadians opposed to the progress of British industry and enterprize; to substitute, in short, for Canadian institutions, laws, and practices, others of a British character. In this pursuit they have necessarily disregarded the implied, not to say precise, engagement of England to respect the peculiar institutions of French Canada. But the Imperial Government, on the contrary, never quite forgetting that ancient pledge, has rather extended its protection to the Canadians than espoused the cause of the British settlers. It were to be wished, perhaps, that this policy had been consistently pursued from the beginning, as in that case a British community might not have grown up here with feelings, wants, and a degree of power which make it simply impossible to pursue such a policy now. But it has not been consistently pursued. By a variety of measures, and especially by promoting emigration to this colony, the Imperial Government has really undermined the Canadian nationality which it perhaps intended to preserve.

A similar contradiction may be observed in their treatment of the national struggle which has ended in civil war. Never taking a decided part with either section in the colony, they have wavered between them; now favouring the one and then the other, but neither decidedly; and finally displeasing both sections in about the same degree. Under such a system, if it may be called one, no governor could have pursued a consistent course, or have attached either the Canadians or the British to the Imperial Government. I should not permit myself to say this reproachfully, even if there were room for an accusation, which, in my humble opinion, there is not; but I mention it as a necessary result of the original false step, and for the purpose of explaining the present disposition of the British party. Deeply offended at every measure or decision of the Imperial Government which thwarted their own British or Anti-Canadian views, they are also wanting in that respect for the supreme authority which is sometimes felt by the discontented subjects of a decided and vigorous Government. * * * Restrained (though not entirely) from the public expression of their sentiments by a hope that the Imperial Government may yet accomplish the object on which their heart is set, they have no such reserve amongst themselves, nor do they at all care who knows of the language commonly held by them when speaking of the Imperial Government, and the connection between this colony and the mother country. I am assured that the leaders and their followers, one and all, are in the habit of declaring, that rather than be again subject to the French (meaning, rather than see another majority of Canadians in the Assembly), * * * * they shall find a way to take care of themselves. I should be sorry to report any idle conversation upon such a topic, but have no doubt that language of this kind is commonly uttered with an earnestness of manner which should prove its sincerity. And this is not all: for the sentiments expressed are enforced by deliberate arguments, such as that,

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and considering the exasperation of the Canadians produced by late events, there can be no permanent safety for people of British descent, except by rendering the colony thoroughly British; * * * and that if the Imperial Government should not provide for the security of its British subjects, the time will soon be past for obedience to any other law than that of self-preservation.

That such views are currently expressed amongst the British party, there can be no doubt; and I am the more disposed to believe them sincerely entertained, because,

having reference to a future contingency, they are not inconsistent with those loud professions of loyalty and attachment to England by which the British minority has hitherto sought to enlist the Imperial Government against the Canadian majority. At present, of course, such views are merely speculative, every thing being held in suspense by the large powers awarded to me, and by the hope of a happy settlement of affairs upon my recommendation.

Notwithstanding, however, the very unfavourable representations contained in this despatch, I am induced to hope with confidence, that success may ultimately attend the measures with respect to this country which have been recently adopted by the Imperial Government. My principal reason for this assurance is drawn from the good effect already produced by decided and vigorous action. The exercise of the very extensive powers placed in my hands seems to have operated as a sort of charm,—like oil poured upon troubled waters. At this moment all is still. A stranger would hardly believe that the country had been recently distracted by civil war. Expectation for the future is, I trust, taking the place of angry passions occasioned by the past. I must, however, conclude by assuring your Lordship, that whatever hopes I entertain of the future, depend altogether on the supposition that Her Majesty's Government and Parliament will not shrink from the adoption of permanent measures of remedy and prevention, proportioned to the greatness of the difficulties with which I have yet to contend, and will sanction such measures as will effectually provide for the abstraction of all legislation on British interests from the control of a French majority. I am of opinion that this great object can be legitimately effected without violence to Canadian rights, and in strict accordance with the soundest principles of constitutional government.

The time is fast approaching when I shall be enabled to bring these measures under the consideration of Her Majesty's Government; and, in the meantime, I recommend to their serious attention the important points to which I have referred in the present communication.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 11 August 1838.

My Lord,

I have the honour to enclose your Lordship copies of a Despatch which I received from Sir Charles Augustus

Fitzroy, of my answer to his Excellency, and of my communication to Her Majesty's Minister at Washington.

I have, &c.

(signed) *Durham.*

(Enclosures.)

Government House, Prince Edward Island, 7 July 1838.

My Lord,

I regret to have to inform your Lordship of an act of piracy which has been perpetrated off the North Cape of this island by an American fishing schooner on a British merchant vessel, the barque Sir Archibald Campbell, from Miramichi, bound to Sunderland. It appears that this vessel struck on a reef off the North Cape on the evening of the 17th of June; the Royal Gazette of the 26th of June, which I have the honour to transmit herewith, contains an account of the manner in which this outrage was committed, and which, in consequence of the local authorities near the spot not being sufficiently aware of the necessity of making an official report to the Government, was the first intimation I received of its occurrence.

I immediately directed the Attorney-general to issue instructions to an intelligent magistrate to proceed without loss of time to the North Cape to take the depositions of the master and crew of the Sir Archibald Campbell and others, who could give authentic information as to the facts, and I was in hopes I should have been able to forward them to your Lordship by this post, but from some informality in the magistrate's certificates I have been obliged to return them for correction. As soon as I receive them again I will transmit them, but in the mean time I am enabled to state to your Lordship that the account in the Gazette is, as far as it goes, perfectly correct, and that I have ascertained the name of the schooner to be "The Four Brothers," of Castine, in the State of Maine.

I avail myself of this opportunity to inform your Lordship that the American fishermen have been particularly troublesome and daring, during the present season, in the depredations they have committed on our fisheries on the coasts of this island, where they literally swarm. They not only fish close in shore, regardless of the limits within which they are bound by the treaty between the British and American Governments not to encroach, but they enter the harbours

and bays in the more remote parts of the colony to carry on their operations, landing when and where they please to commit petty depredations, and to smuggle, and by their numbers and audacity set all attempts to restrain them at defiance, there being no local force at my disposal adequate to keep them in order.

I would, therefore, beg to suggest to your Lordship, that a ship of war should be directed to cruize off the shores of this island, bordering on the Gulf of St. Lawrence, during the fishing season; for if the Americans are permitted to continue their depredations, and the destruction of the fish and bait on these coasts with impunity, our fisheries, which must, at no distant period, become a source of great wealth to the population of this and of Her Majesty's other colonies in the neighbourhood, will be utterly destroyed. I should add, that the schooner still remains on the coast, having taken the precaution to paint out her name. She can, however, I am informed, be easily recognized.

I have, &c.

(signed) *Chs. A. Fitzroy.*

His Excellency
The Right Hon. the Earl of Durham, G.C.B.
&c. &c. &c.

Extract from the Royal Gazette, dated Charlotte Town, Prince Edward Island, 26th June 1838,

"On the evening of Sunday, the 17th instant, the barque Sir Archibald Campbell, Tait, from Miramichi for Sunderland, in a thick fog, and the sea running high, struck on the reef off the North Cape of this island, and is a complete wreck. The crew got on shore the same night. Next morning a boat put off for the wreck for the purpose of saving what they could. An American fishing vessel was seen leaving the wreck; and on the boat's crew arriving on board, they found that the cabin had been rummaged by the Americans, the lockers broken open, and that all the provisions and every article they could lay their hands upon in the cabin carried off, except two flags. Not contented with this they had also carried off the hawsers, two new sails, part of the rigging, and the jolly boat. Another boat had, in the meantime, put off from the shore after the American, and demanded the barque's jolly boat, which they observed her to have in tow. On their demanding it, they were told to be off or they would sink them.

The shore boat was close enough to discern the name of the schooner, and the port she belonged to.

"Captain Tait and his crew were busily employed landing all they could from the wreck, but as there were no less than 48 sail of American fishermen close in upon the reef, he was under continual apprehension that some of their crews would land and plunder what he had saved.

"It is certainly high time that some means were adopted to put an end to such depredations on our coasts, and for the protection of the fisheries from the Americans. A few days ago there were a number then in the harbour of Richmond Bay carrying on their avocation."

Castle of St. Lewis, Quebec, 1 August 1838.

Sir,

I have the honour to acknowledge the receipt of your despatch, dated 7th July 1838, and to inform you that Vice-Admiral Sir Charles Paget will, as soon as possible, dispatch Her Majesty's sloop the Pearl, Captain Lord C. Paget, who will be stationed, with the Charybdis, in the Gulf of St. Lawrence during the remainder of the season, for the protection of the fisheries.

I shall communicate with Her Majesty's minister at Washington, on the subject of the outrage committed on the barque Sir Archibald Campbell.

I have, &c.

(signed) *Durham.*

His Excellency Sir Charles A. Fitzroy,
&c. &c. &c.

Castle of St. Lewis, Quebec, 1 August 1838.

Sir,

I have the honour to enclose your Excellency a copy of a despatch which I have received from his Excellency Sir Charles A. Fitzroy, stating the particulars of an outrage committed on the wreck of a British vessel by the crew of an American schooner. You will, of course, deem it right to bring the subject immediately under the notice of the United States Government.

Her Majesty's sloop of war the Pearl, Captain Lord C. Paget, will be despatched as soon as possible, with orders to cruize, in company with the Charybdis, Captain Gore, in the

Gulf of St. Lawrence, and afford all due protection to the fisheries.

I have, &c.
(signed) *Durham.*

His Excellency
Henry Stephen Fox, Esq., Minister Plenipotentiary,
Washington.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St, Lewis, Quebec, 12 August 1838.

My Lord,

I have the honour to enclose your Lordship the copy of a communication which I have just received from his Excellency the Commander of the forces.

I have, &c.
(signed) *Durham.*

(Enclosure.)

Sorel, 10 August 1838.

My Lord,

I have the honour to acquaint your Excellency, that I returned yesterday from my tour of inspection of the Western districts of the Upper Province; and to transmit to you the accompanying copy of a communication which I have forwarded to the General Commanding-in-chief upon the subject of the military arrrangements considered necessary, in consequence of the alarm occasioned on the frontier, by the reported hostile schemes of the American marauders associated with the refugees from Upper Canada.

The best spirit prevails in all the townships on the river St. Clair, which I visited; and at Sandwich, Amherstburg, and in the townships in that vicinity. In fact, few instances of disaffection appear to have occurred in that section of the country; and I am inclined to believe that the information received by the local government respecting the encouragement held out to the American gangs on the United States frontier, cannot be depended on.

I have, &c.
(signed) *J. Colborne.*

His Excellency the Earl of Durham, G.C.B.
&c. &c. &c.
Governor-general.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 15 August 1838.

My Lord,

Vice-Admiral Sir Charles Paget being on the point of leaving this station, and proceeding to Bermuda and the West Indies, I cannot refuse to myself the gratification of reporting to your Lordship, that the interests of Her Majesty's service have been essentially promoted by the able, zealous, and unremitting co-operation which that officer has afforded me, in his capacity of Commander-in-Chief of Her Majesty's naval forces.

The arrangements which he has made so promptly and vigorously for the establishment, on a proper footing, of the armaments on Lakes Erie and Ontario, and the personal inspection which he made, in my company, of the whole line of frontier, have greatly contributed to the restoration of confidence and the maintenance of public tranquillity in both Provinces.

I feel it therefore my bounden duty to transmit to Her Majesty's Government my cordial acknowledgments of Sir Charles Paget's services, and to request that this expression of my sentiments may be communicated to the Lords Commissioners of the Admiralty, whose instructions the Vice-Admiral has so ably carried into effect.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 25 August 1838.

My Lord,

With reference to my despatches of the 29th June and of the 4th ultimo, upon the subject of the State prisoners sent from this province to the Bermudas, I have now the honour to enclose the copy of a despatch from Major-general Sir Stephen R. Chapman, stating the arrangements made for the detention of the State prisoners in those islands, together with the copy of my reply.

I have, &c.

(signed) *Durham.*

(Enclosures.)

The Bermudas, 28 July 1838.

My Lord,

I have had the honour to receive your Lordship's despatch of the 3d instant by Her Majesty's ship Vestal, conveying to me a copy of the Ordinance passed in Lower Canada on the 28th of June, among other purposes for banishing from the province to this colony eight persons therein named, lately implicated in treasonable practices; and announcing to me that those persons are now sent to the Bermudas, and requesting me to take charge of them, and place them under such restraint as I may deem advisable.

I have also been favoured with a private letter from Vice-admiral Sir Charles Paget, enclosing to me a paper signed by those individuals, promising on their parole of honour not to escape, nor attempt to escape from the Vestal, nor from the Bermudas during their residence here; accompanied by a note from your Lordship to the Admiral, intimating your Lordship's feeling sure their parole may be depended upon, in which sentiment the Admiral appears to concur, and transmits these papers to me as an inducement for allowing the parties to be so treated.

I shall not withhold from your Lordship that this matter has occasioned me no small degree of anxiety.

Upon reference made to the law officers of the Crown in this colony to ascertain what authority I have to impose restrictions on those prisoners in the event of their being landed here, those gentlemen were of opinion that those persons are not liable to be treated as convicts transported to the hulks here, and that I have no authority to impose restrictions upon them with a view to their detention in this colony, and that I should have no legal means of enforcing any such restrictions, by confinement or otherwise. This opinion was confirmed by the chief justice, and I could not but feel that in permitting them to land here, without my being armed with powers to restrain them from escaping, I should be taking on myself a heavy degree of responsibility.

I should also observe to your Lordship, that from the great abundance of small decked boats in this colony, and numerous coves all along the coast, great facilities exist, especially in the summer months, for clandestinely quitting these islands; and instances have frequently occurred of debtors and other persons going off in that way and arriving safe in America, or falling in with American coasters, while there

are merchant vessels keeping up a constant intercourse with New York and other ports.

On the other hand, I could not but feel deeply sensible that to refuse to allow these offenders to land, and thus perhaps occasion their being sent back to Canada, might prove very embarrassing to your Lordship, and might possibly have a tendency to thwart some of your measures for restoring tranquillity to those provinces, in which I should feel most happy to co-operate to the extent of my ability; and as your Lordship expressed such confidence that their parole was to be relied upon (and your means of judging of that are so superior to my own), I ultimately came to the conclusion that I should most effectually meet your Lordship's wishes, and promote the public service, by permitting those persons to land here.

I have accordingly requested Captain Carter to permit them to land upon their signing a paper, promising on their parole of honour, during their residence here, not to go beyond such limits as may from time to time be prescribed to them by the governor for the time being.

They have signed the paper, and landed at Hamilton.

But I trust I may be excused for earnestly requesting your Lordship that they may be removed from here at the earliest moment compatible with the public service, and that no other persons under similar circumstances may be sent hither, where there exist such difficulties in securing them, and such serious objections to their being allowed to reside.

The limits to which I contemplate restricting them for the present, are between the Ferry and Somerset-bridge, a space of 18 or 20 miles, which will exclude them from the naval yard and St. George's.

I have, &c.

(signed) *S. R. Chapman,*

Governor, &c.

His Excellency the Earl of Durham,
&c. &c. &c.

Castle of St. Lewis, Quebec, 24 August 1838.

Sir,

I have the honour to acknowledge the receipt of your Excellency's despatch of the 28th July, and to tender you my best thanks for the promptitude with which you have met my views with regard to the State prisoners sent to Bermuda from this province. I have also to express my entire con-

currence in the arrangements which your Excellency has made for their safe detention.

I have, &c.

His Excellency (signed) *Durham.*
M. Gen. Sir S. R. Chapman, K.C.H.
&c. &c. &c.

DESPATCH from the Earl of Durham, G.C.B., to Lord Glenelg.

Castle of St. Lewis, Quebec, 25 August 1838.

My Lord,

I have the honour to enclose your Lordship copies of a correspondence which has taken place between Sir George Arthur and myself, on the subject of the late convictions for high treason in Upper Canada.

I have, &c.

(signed) *Durham.*

(Enclosures.)

Castle of St. Lewis, Quebec, 16 Aug. 1838.

Sir,

I have been applied to by members of the family of Samuel Chandler and Benjamin Waite, now under sentence of death in Upper Canada, for high treason, as under the late Act against foreigners, for an extension of the Royal mercy to those persons, and for the grant to them of Her Majesty's pardon.

I am unwilling to interfere with the course which, in your Excellency's opinion, might seem the most advisable; and I feel that, without full information and report of the circumstances, I have no means of forming an accurate judgment whether any person convicted of treason by a competent court, is or is not a fit object of the Royal clemency, or the extent to which it might be proper to grant it. But on a careful and attentive perusal of my commissions and instructions, it appears evident that I am called upon to exercise my judgment, as Governor-general of British North America, and Her Majesty's High Commissioner, in all cases arising out of the recent insurrection in the two provinces.

You are in possession of a copy of Lord Glenelg's Despatch addressed to me on the 3d of April last, in pursuance of which I opened my commission of Governor-general and High Commissioner, as well as that of Governor-in-chief of

Lower Canada, on my arrival here. It is, therefore, unnecessary to do more than refer your Excellency in general terms to the tenor of that Despatch, but I am not aware whether your Excellency is in possession of any copy of Lord Glenelg's Despatch to me of the 21st of April 1838, chiefly upon the subject of the revolt in both the Canadas; it is, therefore, as well that I should state to your Excellency some of the passages in that Despatch.

Lord Glenelg observes: "The late revolt in the Canadas has been followed by the arrest and imprisonment of a very considerable number of persons both in the Lower and Upper Province. In regard to Upper Canada, I have not even to this time been informed of the course contemplated by the local authorities for bringing such prisoners to trial." After giving various instructions as to Lower Canada, his Lordship proceeds: "From the very commencement of the late disturbances it has been, as your Lordship is aware, the earnest desire of the Government that the utmost lenity, compatible with public safety, should be exercised towards the insurgents. This is the principle inculcated in my various despatches to the authorities in Lower and Upper Canada." "The course of events and the circumstances in which we may venture to assume you will find the Provinces, will supply, as it appears to us, new facilities as well as fresh inducements to the carrying of this principle into effect."—"In order to enable you to act with promptitude in this respect, you are relieved from the restriction by which your predecessors were prevented, in the case of treason, from giving an absolute pardon, or granting more than a respite, till the Royal pleasure should be known. In your commission, that restriction is omitted."

In consequence of these instructions, I have to request that your Excellency will forward to me a full report of the cases of all the prisoners, with the judges' report upon them, and that your Excellency will also favour me with your own views upon each particular case, and a statement, as far as in your power, of the previous character and conduct of each of the prisoners, and any recommendation to mercy which the juries who tried them may have given.

I have, &c.

(signed) *Durham.*

His Excellency Major-Gen. Sir George Arthur, &c. &c. &c.

Castle of St. Lewis, Quebec, 24 August 1838.

Sir,

In referring again to your Excellency's despatch of the 20th instant, I cannot but notice with very sincere regret some indication of an absence of that spirit of perfect and cordial co-operation which I have hitherto found, and expected to continue to find, in our communications. I neither intended, nor was I able to "deprive your Excellency of the powers expressly vested in you by the Royal commission." My purpose was simply to exercise that superintending authority, as Governor-general, which is vested in me by my commissions, and my instructions, in terms too clear to admit of doubt or discussion. Nor could I, without, in my own judgment, a dereliction of duty, abstain from exercising it in a matter, which not only belongs to that class of "more considerable questions" on which I am required to "maintain uniformity of principle in the administration of the different North American Governments," but which has been specifically referred to me in repeated despatches. I cannot agree with your Excellency in supposing that I could have misapprehended the many passages quoted in my despatch of the 16th instant, or that I could have erred in inferring from the whole tenor of Lord Glenelg's correspondence with me, that the disposal of the political prisoners in Upper, as well as in Lower, Canada, was a matter especially committed to my control: nor do I think it possible for me to err in concluding, from Lord Glenelg's despatch of the 14th July, of which I had the honour of transmitting your Excellency a copy on the 21st instant, that his Lordship's intentions, and even directions, must have been, that you should take no step with regard to the persons implicated in the late rebellion in Upper Canada, without communicating and making sure that you were acting in concert with me.

I am aware of the power of pardoning for treason possessed by you in virtue of that clause in my commission which devolves on you, during my absence, all the powers therein entrusted to me: and which, consequently, invests you with powers of pardon never hitherto committed to the Governors of these Provinces. But I know of nothing that exempts this delegated authority from the general subordination to instructions from the Governor-general.

Your Excellency's explanation of the policy which you had determined on adopting with regard to the prisoners convicted at Niagara does not immediately strike me as indicating a course so obviously correct, that I can dispense with the infor-

mation which I required in my despatch of the 16th instant. I cannot quite admit the propriety of selecting some one subject of Her Majesty to share the fate of Morreau, the leader of the expedition, who happened to be a citizen of the United States. The fate of Her Majesty's subjects should be determined on a view of their own conduct, and of the circumstances which have led the juries to accompany their verdict of guilty, in every case, with a recommendation to mercy.

I must, therefore, repeat my request for the reports, statements, and information, which I previously desired your Excellency to transmit to me; taking for granted that you will, as a necessary consequence, respite all the prisoners until I shall have had time to make the inquiries which I propose.

I have, &c.

(signed) *Durham.*

His Excellency
Major-Gen. Sir George Arthur,
&c. &c. &c.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 12 September 1838.

My Lord,

The period fixed for the trials of the murderers of Lieutenant Weir and Chartrand is passed, and the result of the proceedings, in both cases, is precisely that which I anticipated, and to which I referred in my former despatch, when I stated to your Lordship that, in political cases, "little expectation was to be entertained of a conviction by the ordinary juries before the regular courts."

In the case of the murderer of Lieutenant Weir, the principal witness was induced to keep out of the way, and the prosecution for the Crown was rendered impossible. In these circumstances, the judges remanded the accused until next term.

In the case of Chartrand, the most clear and indisputable evidence of the guilt of the prisoners was adduced, but the jury, French Canadians (all others upon the panel, as had been foreseen, having been got rid of by the challenges of the accused, allowed by the existing law), brought in a verdict of "not guilty."

I have applied for a copy of the judge's notes, which shall be transmitted to your Lordship. According to the present

state and practice of the jury law, an equitable decision on any case, I fear, is hardly to be expected.

What has passed in these instances proves, I think, clearly, the sound policy of the course I pursued with regard to the prisoners charged with treason. It is now certain that no jury but a French Canadian could have been empanelled, and that the acquittal of one and all would have been certain, however strong the evidence of their guilt.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 13 September 1838.

My Lord,

Her Majesty's steam-ship the Medea arrived yesterday morning, having on board two deputations from Nova Scotia and Prince Edward's Island, selected and sent by Sir Colin Campbell and Sir Charles Fitzroy, for the purpose of conferring with me on the subject of the general arrangement for the future government of the North American Provinces.

The deputations are composed as follows:

From Nova Scotia: Mr. Johnston, Solicitor-general; Mr. Uniacke, Member of the Executive Council; Mr. Young, Member of the House of Assembly; and Mr. Almon, banker and merchant.

From Prince Edward's Island: Mr. Dalrymple, Speaker of the House of Assembly; Mr. Haviland, Treasurer of the Island; Mr. Pope, merchant and Member of the House of Assembly.

I shall lose no time in conferring with these gentlemen, who seem to me well qualified to give me all the information I require.

I have every reason to believe that they are all impressed with the necessity of a general union of the Provinces, as the most likely measure to preserve their connection with the British Crown.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 17 September 1838.

My Lord,

I have the honour to enclose copies of a Report on the subject of militia claims to land, made to me by the Commission of Crown Lands and Emigration, and also of a Proclamation which I have issued in consequence of that report.

At the same time it behoves me to assure your Lordship, that if any reliance is to be placed on the concurrent testimony of all from whom I have derived information on this subject, the report in question contains but a faint description of the injury inflicted on this Province, and of the cruel injustice done to the militiamen, by the manner in which the intentions of the Home Government, with respect to these claimants, have been defeated by the local executive.

The intention of the Prince Regent in awarding land to those officers and men of the militia, who had loyally and gallantly served during the last American war, was, in part, it may be presumed, to promote the settlement of wild lands and the consequent prosperity of the Province, but chiefly, there can be no doubt, to bestow upon that body of loyal and gallant men, some extraordinary recompense for the privations and dangers which they had cheerfully incurred in defence of the country. I am satisfied that neither result was obtained in any but so slight a degree as to be scarcely worth notice. But on the other hand results occurred, as to the great majority of cases, precisely opposite to those which the Home Government had in view. The official delays and obstacles interposed between the militia claimants and the grants to which they were entitled,—the impossibility, in many cases, of ever obtaining a grant even after the most vexatious impediments and delays,—the mode of allotting the land in such a manner that the grant, when obtained, was often worth nothing at all, and seldom worth the expense and trouble of obtaining it,—the necessity of employing and paying agents acquainted with the labyrinths of the Crown lands and Surveyor-general's departments,—the expense, uncertainty, and harassing trouble attendant upon the pursuit of such a claim,—all these circumstances, for which I am compelled to believe that the public offices were alone to blame, had the effect, I am convinced, in the majority of cases, of converting what the Prince Regent had intended as a boon, into a positive injury to the militiamen. As a natural consequence, the militiamen disposed of their claims, often

for a mere trifle, to land speculators who never intended to settle upon the grant, and who have, for the most part, kept the land in a state of wilderness, thereby defeating the only other intention with which the Home Government could have determined on making these grants. From a careful inspection of the evidence taken on this subject, from official gentlemen as well as others, I am led to concur entirely in that part of the Commissioner's Report which states, that "there has been the maximum of injury to the Province, with the minimum of benefit to the militiamen."

This crying grievance has been over and over again, and in various forms, represented to the Government, but without any attempt, as far as I can discover, to provide an adequate remedy for it. I am encouraged to hope that the measure on which I have determined, may, as respects the claims yet unsettled, be the means of carrying into effect, however tardily, the objects of the Prince Regent, by conferring a considerable boon on these meritorious but long-disappointed claimants, and conducing to the settlement of the lands which may thus be alienated by the Crown.

I have, &c.

(signed) *Durham.*

(Enclosures.)

Militia Claims.

Special Report to his Excellency the Governor-General, from the Commissioner of Crown Lands and Emigration.

To his Excellency the Governor-General.

My Lord,

Having nearly concluded the inquiry into the disposal of Crown lands and Emigration in the Province of Lower Canada, I beg leave to report upon the subject of the militia claims to grants of lands; a matter which appears to require the immediate interposition of Government, and cannot, without great inconvenience, be postponed till the completion of the inquiry in the neighbouring Provinces, which must precede any general report.

It appears that grants of land to individuals who served in the militia during the last American war, were first directed by instructions which, in 1818, were transmitted by the Home Government to the Duke of Richmond, then Governor of the Province, under which all subsequent proceedings seem to have been taken; though as no record of these instructions is extant in the colony, and no measures have been adopted to

procure a copy of them from England, it is impossible to determine positively the parties to whom grants of land were directed to be made. From an Act of the Provincial Parliament, 59 Geo. 3, c. 23, appropriating 3,000*l.* for the survey of townships within which the grants were to be situated, it would seem that the instructions referred almost entirely to the embodied militia.

Under this Act just referred to, several townships were surveyed and laid out, and the 2d of November 1822, a proclamation was issued by Lord Dalhousie, directing all persons who had served in the six battalions of embodied militia, and such as had marched to the frontier, to bring in their claims before the 1st of May 1823. The time fixed by this proclamation as the limit within which claims were to be made, was afterwards enlarged by another proclamation to the 1st of May 1824; and again, on the 29th of July 1829, by another proclamation, to the 1st of August 1830.

Under these proclamations claims to a very considerable extent appear to have been made, and upwards of 200,000 acres have been granted. A question, however, arose, at an early period, as to the character of the individuals to whom the original proclamation was intended to apply. In addition to the six batallions of embodied militia there were several corps of the sedentary militia, which had been called out during the course of the war, and had, for a short time, marched to the frontier; the members of which contended that they were entitled, under the terms of the proclamation, to the same benefit as those who had belonged to the six batallions of embodied militia. The claims of many of these individuals were favourably received by the Executive Council, and upon their report recommending grants, two or three persons received location tickets. When, however, the subject was brought under the notice of Lord Dalhousie, he refused to confirm the report of the council in favour of an individual belonging to the sedentary militia, who had for a short time marched to the frontier, on the ground that the proclamation was only intended to apply to the six incorporated batallions. It does not appear that any claims of this nature have been subsequently allowed, with the exception of two or three, which were sanctioned during Lord Dalhousie's temporary absence from the colony, by Sir Francis Burton, the Lieutenant-governor.

All the grants made to claimants under this proclamation were made upon conditions of settlement. The grantee was to reside upon his property during a period of three years, to erect a dwelling-house, and clear and cultivate four acres of

land. These conditions were complained of as burdensome; and, in 1837, Lord Gosford issued a proclamation, since confirmed by instructions from the Secretary of State for the Colonies, stating that the claims of the officers and men who served in the embodied militia during the last American war had been brought under the notice of Government, and that such of the officers and men as had lodged their claims previous to the 1st of August 1830, should obtain land free from all conditions, except that of performing the public and joint labour required by the laws of the Province. By the same proclamation a board was constituted, to whom all claims were to be referred.

The claimants before that board have been of three classes: 1st, those who had served in the six batallions of embodied militia, and had lodged their claims previously to 1830; 2d, those who had belonged to other corps, and who, according to the rule laid down by Lord Dalhousie, had no title under the original proclamation, but who had lodged their claims before 1830; and 3d, those of whatever class who had not made their claims before that period. The number of individuals of the first class amounts to 2,195, of the second class to 2,598, and of the third to 1,669.

Upon the claims of the first class no question can arise. According both to the spirit and the letter of the proclamation of Lord Gosford, they must be admitted. As little doubt can arise as to the third class, who are expressly excluded by the same proclamation. But there appears to be some difficulty with regard to the second class, arising partly from the ambiguous language of the proclamation of Lord Dalhousie, and partly from the fact, that some few individuals belonging to that class have actually been admitted to the benefit of the proclamation. The conduct of Lord Dalhousie himself is explicit as to the meaning that he attached to his own proclamation; and it may be inferred from the sum granted by the Assembly, for the purpose of surveying, that they did not contemplate these cases, which, if admitted, would have doubled the amount of land required as included in the proclamation; since they would, in that event, have hardly granted a sum so entirely inadequate to the purpose. It is, however, stated that there were one or two corps who were incorporated in the same manner, and performed the same services, as the six batallions. If this is the case, individuals belonging to these corps, as their services were equal, would seem to be entitled to similar reward; and the terms of the original proclamation, as well as those of all the addresses of the House of Assembly on the subject, and of the last pro-

clamation, are sufficiently comprehensive to include them. The question for the decision of the Board to whom these claims have been referred, appears to be a question of facts. It would appear that those who were embodied and actually served on the frontier in the same manner as the six batallions, ought to be considered as entitled to the benefit of the proclamation, while all but these are altogether excluded. It may be mentioned, that the exclusion of those belonging to the third class, who, notwithstanding ample notice and two separate enlargements of time, neglected to make any claim in due time, is strictly in accordance with the view expressed by the Home Government in their Despatch to Lord Gosford, and with Lord Gosford's answer to the House of Assembly.

The proclamation of Lord Gosford, directing that letters patent for the land to be granted should contain none of the conditions formerly imposed, was founded upon an address from the House of Assembly, representing those conditions as onerous to the militiamen, and destructive of the value of the grant. There appears to have been much justice in this representation; since the greater part of the locations allotted to militiamen were distant from settlement, and the expense of clearing and cultivating the requisite quantity of land, away from a market, and with no practical roads leading to the spot, was very considerable, amounting in many cases to more than 5*s.* per acre, upon the whole grant, while in this part of the province land was selling as low as 1*s.* 3*d.* per acre. The performance of these settlement duties would not have been burdensome if the individual acquiring the land had been about to establish himself upon it; but in a great number of cases the grantee had land elsewhere, from which he did not choose to remove, or the lot assigned to him might be 15 or 20 miles from a settlement, and in all such and similar cases the conditions were performed solely with a view to enable the individual performing them to obtain his patent. The grant was so situated generally, as to be useless for the purpose of settlement; and the conditions to which it was subject rendered it of no value in any other point of view.

The House of Assembly, in urging the abandonment of these conditions, seems, however, to have overlooked, or to have been ignorant of circumstances which have appeared in evidence before this commission, and which would entirely defeat the intentions of the House, so far as they were desirous of conferring advantages upon the militiamen. It has been stated by all the witnesses who have been examined upon this subject, that the majority of the militiamen have already disposed of their claims, and that this has been done,

in most instances, for very inadequate considerations. They were induced to do this partly by the difficulty and trouble of urging their claims in person, and the expense of employing an agent, and partly by the nature of the conditions which they were required to fulfil. To such an extent is this sale of militia claims stated to have been carried, that it would seem almost as though the militiamen themselves were not more interested in any facilities for the acquisition of these grants, or relaxation of the conditions attached to them, than any other class of the community, and the benefit which, by a compliance with the wishes of the Assembly, Government designed to secure for a numerous and deserving class, would be reaped chiefly, if not entirely, by speculators, by whom these claims have been bought, and who, even supposing their bargain with the militiamen to have been fair, had assuredly no claim to any particular consideration from the Government. They had purchased the claims subject to the conditions of settlement, and paid a proportionably low price for them; and the abandonment of these conditions was a boon to them entirely uncalled for by the real circumstances of the case.

It is, in fact, obvious, that upon any system of land-granting to such a body as the militia, a similar result to that which has been described as having actually taken place, must to a certain extent be expected. The majority of the militia were French Canadians, who have not hitherto been, and are not now an emigrating people. Those of them, too, who might have been disposed to settle upon their lands, would find that the desert round them, consisting of lands which had been granted to non-resident militiamen, rendered their success as settlers impossible. They would have been isolated, or thinly scattered over a large tract of wilderness, away from society, and removed from all manner of religious instruction, to which they attach the highest importance; deprived of all succour, and without the superintendence to which they had been accustomed. Under such circumstances nothing could be expected but that they would sell their land, and generally for an inadequate consideration, since they would estimate its value by what, under the circumstances, it seemed to be worth to them. From the evidence of Mr. Morin, this appears to be so much the case, that any indication of a favourable disposition on the part of Government in regard to these claims, has had no other effect than that of stimulating speculation in them, and instead of inducing the militiaman to obtain the lands for himself, in order that he or his family might settle upon them, has only

increased in some small degree the price which he could obtain for his claims.

But while the grant of land, as land being useless to the militiaman, is merely equivalent to him to a grant of some very small variable amount in money, its effects upon the Province have been most injurious. Under the claims of the militia of 1775 upwards of 230,000 acres, and under those of the last American war upwards of 217,000 acres, have been granted, by far the largest part of which is still perfectly waste and unsettled. Whole townships, which have been granted in this manner, have not a single settler established upon them. In this manner it has happened that a system which was designed as a means of settling the Province, and of rewarding those who had enlisted in its defence, has proved one of the great impediments in the way of the former object, and has accomplished the latter in the smallest possible degree. There has been the maximum of injury to the Province with the minimum of benefit to the militiamen. And a similar result must, it would appear, necessarily follow a perseverance in the same system. There is no probability that 300,000 or 400,000 acres, to which valid claims might be established, if granted in the same manner, would be settled any more than the 450,000 acres which have already been granted, or that the benefit to the militiaman would be greater in any appreciable degree. It becomes, therefore, a matter of importance in every point of view, to frame some plan by which the intentions of Government in offering this bounty might be carried out, by which justice may be done to the claimants, while the interests of the public are secured.

The most effectual measure for this purpose appears to be the following. That any claim established should be considered as entitling the claimant to an amount equivalent to the value of the quantity of land awarded to him, at the average selling price of Crown lands during the last ten years, and that an order for this amount should be given to him, which should be accepted as money at any sale of Crown lands. In all cases, the order should be delivered to the claimant himself, or in the event of his death to his legal representatives, or upon the production of an order, signed by him in the presence of witnesses after due notification of the intentions of Government in all parts of the Province.

By this precaution, the militiaman would be secured as far as possible in the enjoyment of the benefit designed by Go-

vernment; and only such a sale of his claim as ought in equity to be held valid, could be enforced against him.

I have, &c.

(signed) *Charles Buller,*

Chief Commissioner of Crown Lands and Emigration.

Quebec, 8 September 1838.

PROVINCE OF LOWER CANADA. *Durham.*

By his Excellency the Right Honourable John George, Earl of Durham, Viscount Lambton, &c. &c. &c.

A PROCLAMATION.

Whereas, in the year 1818, his Royal Highness the Prince Regent was graciously pleased by his royal instructions to direct that grants of land should be made to certain persons who had served in the militia of the Province, during the last war with the United States of America; and whereas the time within which applications for such grants were to be made, which was originally fixed by proclamation for the 1st day of May 1823, was by two subsequent proclamations enlarged to the 1st day of May 1824, and the 1st day of August 1830; and whereas by a proclamation, dated the 22d day of February 1837, it was declared, that such officers and men of the embodied militia, as had lodged their claims previous to the said 1st day of August 1830, should obtain land according to their rank, and that letters patent should issue for the same, without any further condition than that of performing the public and joint labour required by the laws of the Province; and whereas our Commissioner appointed to inquire into the disposal of waste lands, the property of the Crown in this Province, has reported to us that difficulties have arisen as to the persons entitled to the benefit of the said royal instructions and proclamations, and also that great public inconvenience has resulted from the grants of land which have been already made to militiamen under the authority of the same, without any equivalent benefit having been thereby produced to the persons to whom such grants have been made, and that it is expedient that some alteration should therefore be made in the system hitherto adopted: I do hereby notify and declare, that only those of the officers and privates of such corps of militia as were actually incorporated and embodied during the last American war, and served

precisely in the same manner and for a like period of time as the six battalions of select and embodied militia, together with the officers and privates of such six battalions, whose claims were duly lodged before the said 1st day of August 1830, are entitled to grants under the said royal instructions and proclamations. And further, that in the event of any claim to a grant of land under the same being allowed, the persons entitled thereto shall receive an order for such a nominal amount of money, as would be equal to the value of the land to which he would be entitled, at the rate of the average price for which waste lands, the property of the Crown, have been sold at public sale during the last ten years; and that such order shall at any future sale of Crown lands in the Province, be accepted and taken as money in payment for land purchased, so far as the same will extend. And further, that in no case shall any such order be given upon the allowance of any claim, unless to the party whose claim shall have been allowed, or in the event of his death, to his legal personal representatives, nor unless upon the production of an authority in writing, signed by him or them after the allowance of such claim, in the presence of two witnesses, one of them being the priest of the parish, and the other a notary public, not being the agent employed to prosecute such claim, nor having any interest therein. And I have appointed John Davidson, Tancred Bouthillier, and Joseph Rene Kimber, esquires, to form a Board for the investigation and adjudication of such claims, to meet at the Union Buildings every Tuesday and Friday, at twelve o'clock, and Jean Langevin, esquire, to be the secretary of the said Board.

Given under my hand and seal at arms, at the Castle of St. Lewis, in the city of Quebec, in the said Province of Lower Canada, the 11th day of September, in the year of our Lord 1838, and in the second year of Her Majesty's reign.

By his Excellency's command,

(signed) *D. Daly,*

Secretary of the Province.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 18 Sept. 1838.

My Lord,

I have the honour to enclose your Lordship the copy of a despatch which I have addressed to Sir George Arthur, and of which I beg your serious consideration.

I have, &c.

(signed) *Durham.*

(Enclosure.)

Castle of St. Lewis, Quebec, 18 September 1838.

Sir,

I have the honour to acknowledge the receipt of two despatches from your Excellency, bearing date the 29th and 31st ultimo, enclosing, together with other documents, copies of a despatch from Lord Glenelg, bearing date the 12th of July, and of a minute of the proceedings of the Executive Council of Upper Canada on the 27th ultimo. They all refer to the disposal of the prisoners lately convicted of high treason and felony at Niagara, and to my despatches on that subject of the 16th ultimo.

I am much pleased to find from your Excellency's despatches that I have no reason to apprehend any cessation of that cordiality which marked our first communications. Entire co-operation on your part, and on that of the other Lieutenant-governors of British North America, I regard as one of the essentials to success in my most arduous undertaking. And your Excellency may be quite confident that I shall not endanger the maintenance of that desirable state of things, by needless interference in the administration of any of the provinces subject to me as Governor-general, or by calling on the Lieutenant-governors to abandon any public duty in deference to my instructions.

I wish that I could observe the same tone which pervades your Excellency's despatches in all the proceedings of the government of Upper Canada. But I regret to find, in the minute of the proceedings of the Executive Council, which you have transmitted to me, a tone of criticism in reference to my policy, which could not with propriety have been under any circumstances used by that body, which it was particularly unseemly for it to address your Excellency, but which shall not tempt me into the controversy which it seems to invite.

I am happy, however, to perceive that there is no apparent difference between the view which I have always taken of my powers and duties as Governor-general and those which are expressed by your Excellency and your Executive Council. My inclination does not prompt me, any more than my instructions direct me, to exercise a constant interference in the details of the administration of affairs in the Upper Province. These I have left and shall continue to leave to your Excellency and the local authorities, wherever the course which you or they may pursue would not necessarily interfere with the larger policy which I consider applicable to all the provinces of British North America. This distinction I have endeavoured consistently to observe in all my acts with reference to the various applications addressed to me from Upper Canada. Whenever my interposition in the ordinary administration of affairs in that province has been desired, I have invariably referred the applicant to your Excellency, or informed him that I could not interfere. Nor have I failed to mark my sense of this necessary distinction between your functions and mine in the very case in which your Excellency appears to think that I have confounded them. When the urgent nature of the cases of Chandler and Waite compelled me to take some instant steps, in order to prevent the practicability of any general policy with regard to the political prisoners from being compromised by the adoption of a definitive course with respect to those men, I think that the very mode of my interference showed that it was directed, not to the particular cases, but to the general policy involved in them; for I desired your Excellency to give me the means of considering the proper course to be adopted with regard not only to those two, but to all the prisoners then under sentence for treasonable offences. I conceived, in fact, that a period had arrived in which it became imperative on me immediately to consider the cases of all the political prisoners in Upper Canada, in order to avoid the inconvenience which, as Lord Glenelg has observed in the despatch of the 12th July, must ensue, if "a different principle should be observed in Lower and in Upper Canada." If I intended, in compliance with Lord Glenelg's instructions, to consider the question of a "general amnesty," it was surely but necessary to delay the execution of prisoners who might be included in it.

It is to the great question thus referred to me by Lord Glenelg in former despatches, as well as in the one which you have transmitted to me, that I wish to invite your Excellency's serious attention. The question of a "general am-

nesty" involves the whole policy of punishment. The extension of pardon on any general principle implies the determination of the objects and the degrees to which punishment is to be applied. On this it is that Lord Glenelg desires that the Governments of Upper and Lower Canada should act in concert. Nor should I have waited for such specific reference of this particular question: I should have conceived the consideration of it imposed on me by my duty as Governor-general. Every hour's experience of passing events convinces me more and more, that the disposal of the prisoners implicated in the late insurrections is a matter on which, above all others, the British Government should not appear to be acting on different and conflicting principles in the two Canadas; that it is one of those "more considerable questions" on which I am instructed to "maintain uniformity of principle in the administration of the different North American Governments."

My line has already been taken. The whole of the cases arising out of the late insurrection in Lower Canada have been disposed of in one way or another. The gaols are emptied; all the punishment that is to be inflicted has been allotted to the different offenders; no man remains in uncertainty as to the fate that awaits him; and almost the whole of the refugees, whom the apprehension of punishment had made dangerous exiles, have returned in security to their homes. If any uniformity is to be observed in the two provinces, it only remains to be seen how far the same results are attainable in Upper, as have already been secured in Lower Canada. The state of feeling in the Upper Province fortunately enables your Excellency to enforce the laws by those ordinary legal means, which I have found insufficient in this. You have discharged the painful duty of making a severe example of the most prominent offenders. It now only remains for your Excellency to act in concert with me by putting an end to that excitement which must continue as long as the fate of any persons involved in the late insurrection is left undetermined. With the details of minor punishments it is not necessary or desirable that I should in anywise interfere. My purpose will be attained if definitive measures can be adopted to bring to trial all persons now in custody, and determine their fate, without the infliction of any further capital punishment, and if provision can be made for an amnesty that shall enable all but a few of the most prominent of those not in the hands of justice to return in confidence to their homes.

I am certainly very anxious that no further capital punish-

ments should take place. I think I may assume that there can be no intention on the part of the Government of Upper Canada to inflict such punishment on any of the persons implicated in any of the disturbances prior to that of the Short Hills. Of the latter class, it now appears that it has been determined in the Council to inflict the utmost penalty only on one, namely, Jacob Beamer. Your Excellency has transmitted to me a minute of the proceedings of the Executive Council on the 9th ult., in which I find that that body had recommended, with your Excellency's approval, that Chandler, Waite, and M'Leod should all be executed, together with a fourth, whom the Council say, in the minute of the 27th, it had been their intention to select out of a batch of untried prisoners, of whose guilt nothing could then be known. I am as much at a loss to understand this principle of anticipative severity, and to conceive why the number four should have been originally fixed upon, as I am to discover what subsequent information, or new view, had induced the Council to change its opinion on the 27th so completely, as to recommend that all the three should be pardoned, and the extreme rigour of the law applied only to Beamer, who, having had the bad fortune of being convicted in the interval, had been fixed on as the fourth of those originally destined to suffer together. I entirely approve of the lenity shown towards the three; but I cannot reconcile it with my notions of justice to doom Beamer to a harder fate. There is one clear rule for the apportionment of punishment amongst rebels. Except where a subordinate happens to have aggravated his offence by some peculiar act of atrocity, the severest punishment ought always to fall on those who shall appear to have been the principal leaders and instigators, and whose influence shall have led others into crime and misfortune. The leader of the rebel band has already suffered in the person of Morreau. Common report, and the evidence adduced on the trial, agree in pointing out Chandler as the next in influence, activity, and guilt. No circumstance of contingent aggravation has been proved against Beamer: for the fact of his being the nominal leader in an act of robbery, concerted with the others, and committed in the company of Morreau, seems to me in nowise to distinguish him from the rest. I cannot but say that it would appear to me the utmost injustice that Beamer should suffer, while Chandler escapes, capital punishment.

But be the proportion of Beamer's guilt greater or less, it does not appear that the amount of it is such as to render it impossible to vindicate the authority of the law without his execution. My earnest desire is that no further capital punish-

ment should be inflicted for past offences. While I give your Excellency credit for the same natural feeling of humanity, your recollection of my conversations with you when I was in Upper Canada will convince you that I, on the other hand, should not, any more than yourself, hesitate to conquer my repugnance to capital punishment, in those emergencies in which a prompt severity is necessary to the public safety. I expressed my wish, that in the case of piratical outrages, similar to those which have recently harassed our frontiers, the prompt and rigorous execution of the most summary process known to our law should strike instant terror into the offenders. I have not changed this opinion; and one of the grounds on which I formed it was, that where severity is advisable, the moment of the commission of the crime seems to be the only one in which it is possible to apply it. When an insurrection is suppressed, when the offender is helpless, the recollection of the crime weakened by the lapse of time, and the horror of the impending punishment alone vivid, the common feelings of humanity render it impossible to use the severity which would previously have been allowable. That this change of feeling has taken place in this instance, the information supplied to me by your Excellency leaves no room for doubt. In the very district which has been disturbed by their crimes, the very juries that convicted have recommended the very leaders to mercy; petitions from a large number of persons, and one signed by the sheriff of the district, have declared the feeling of the neighbourhood against further capital punishment; and those which have been received from inhabitants of the United States, show that the utmost leniency would be most acceptable to the people of a continent, on which the punishment of death is rare and odious.

Even if I thought it just that Beamer alone should suffer death, these evidences of feeling would convince me that it would be unwise and impolitic to mar, by a single exception, the good effect of that general lenity which I think practicable. I trust that your Excellency may be induced to look on this matter in the same light, and commute the sentence of Beamer, as well as of the others, by your own act.

If your opinion should remain unaltered, I will not desire your Excellency yourself to carry into effect a course which may be repugnant to your own sense of duty. But I must request that reference be made to Lord Glenelg, and that Beamer be respited until his Lordship shall have decided the point.

With respect to the political prisoners not yet tried, the course which policy and justice alike demand, is, that they

should be brought to trial or discharged without loss of time. I fully appreciate your Excellency's reasons for past delay; but as the great excitement has subsided, there appears to be no sufficient objection to the adoption of definitive measures with regard to these persons. A great cause of excitement would be removed by putting an end to the suspense of these persons and their friends.

But a point on which I am still more anxious is, that of the adoption of some measure that shall allay the alarms of such of the refugees as it is not necessary to keep in perpetual banishment. The number of persons who, from a consciousness of guilt, or from a causeless alarm, have fled their homes, and now hang about the frontiers of Upper Canada, is represented as very considerable. Of these a few are among the most dangerous and guilty of the rebels; a large portion are the more insignificant of their followers and dupes, and probably as large a portion are persons who, without having actually committed treason, were nevertheless so connected with the rebels, or had carried their political opinions so far, as naturally to render them fearful of suspicion and prosecution. It is obviously desirable to separate these two latter classes from the former, to prevent their supplying it with tools; to relieve the frontiers from the cloud of hopeless exiles, who menace the Province with their desperation, and awaken the sympathies of our neighbours by the aspect of their wretchedness. With this object, I am desirous of impressing on your Excellency the policy of adopting some measure of amnesty. Excluding from it those prominent and irreclaimable rebels, whose guilt merits no mitigation of punishment, and whose hostility no mercy could disarm, that amnesty might be so extensive as to relieve the Province from the great mass of refugees now crowding the frontiers, and appease the alarms and animosity of their families.

I have, &c.

(signed) *Durham.*

His Excellency Sir George Arthur,
&c. &c. &c.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 19 September 1838.

My Lord,

I have the honour to acknowledge the receipt of your Lordship's Despatch of the 21st July, acquainting me that the Lords Commissioners of the Admiralty have reported

to you that they have no steam-vessel of a light draught of water which can be sent to the St. Lawrence. Notwithstanding this report, I have been so much confirmed, by subsequent experience, in the opinion I expressed in my Despatch of the 8th June, on the expediency of stationing a vessel of that description at Quebec, that I consider it my imperative duty to urge that arrangement again upon your Lordship's attention.

The monopoly of the Steam Navigation Company between Quebec and Montreal continues unabated, and several attempts to oppose it having been defeated by the Company, no reasonable prospect can be at present entertained of its being overcome.

The charges of this Company are most extravagant; and although I have used my best endeavours to restrain those charges, by availing myself of the able assistance of the Commissary-general and of the officers of his department, through whom all the arrangements for my journeys have been made, and the expense of them defrayed, yet, as I stated in my Despatch, the Company have declined to furnish a steam-vessel for the service of Government for less than 100*l.* currency a day, and even at that exorbitant rate, only on condition that the vessel should be hired for at least five successive days.

For the two journeys to Montreal, which I was compelled to make, the hire of steam-vessels amounts to 1,500*l.* currency; and all other charges of the Company for Government services are made on a similar scale.

The steam-vessels of the Company, although well adapted to the navigation of the St. Lawrence between Quebec and Montreal, are quite unfit for the performance of any service on the lower parts of that river, if the water be at all rough.

Under these circumstances it becomes my duty to repeat my opinion, that a steam ship of war, such as I have described, ought, for the interests of Her Majesty's service, to be stationed in the St. Lawrence. This vessel would render the military departments independent of the steam-boat monopoly; the service would be much more efficiently and economically performed, and, in the districts of this Province in which she would be employed, where the towns and settlements are chiefly confined to the banks of the river, a well-armed steam-vessel would produce important effects in a military point of view.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 20 September 1838.

My Lord,

I have the honour to transmit to your Lordship the enclosed copy of a communication from the Attorney-general of this province, with respect to a proposal for giving some further facilities for jury trial in particular cases in the parish of Ste. Hyacinthe.

The subject in itself is of no permanent interest: but I transmit this communication to your Lordship, in order that you may be enabled to judge of the working of the jury system in this province, in the opinion of those most conversant with the subject.

I have, &c.

(signed) *Durham.*

(Enclosure.)

Quebec, 19 September 1838.

Sir,

In accordance with the instructions conveyed to me by your letter, dated 1st September, I have prepared the draught of an ordinance amending the Acts of the Provincial Legislature, 2 Will. 4, c. 66, and 4 Will. 4, c. 8, which I have now the honour to transmit herewith.

As, however, I have been desired to state any objection which may present itself to such amendment of the Acts in question, I beg leave to submit most respectfully to the consideration of his Excellency the Governor-General, whether events of recent occurrence have not too lamentably proclaimed the utter inefficiency of juries summoned under the provisions of the Ordinance 27 Geo. 3, for the purposes of public justice, and I may be permitted to question whether the further extension of the principles of that ordinance, under existing circumstances, could in any way compensate for the political perversion and party abuse to which they would be liable.

Within the last 12 days we have seen a jury composed according to the provisions of this ordinance, in defiance of evidence which was not only unquestionable but even unquestioned, acquit the murderers of a loyal and inoffensive fellow-subject, upon the grounds (and they were the only grounds urged in the defence), that pending a rebellion in which they took a part, the victim had been a spy and enemy to his

country, and as such deservedly put to death by the sentence of his fellow-countrymen.

The gratuitous assumption of criminal responsibility implied by the verdict of this jury, independent of their contempt for the most sacred obligations, convince me that similar results must be expected whenever juries thus composed are called upon to decide upon matters of a similar character or tendency.

I am happy, therefore, of an opportunity to pronounce my humble but decided opinion against the present system for the selection of juries in criminal jurisdictions in this province, which prostitutes the constitutional bulwark of British liberty into an engine for the infliction or the retaliation of political injustice. To discourage the first experiment of the inhabitants of the county of Ste. Hyacinthe in the scheme of local taxation may be a matter of regret, but I consider it a lesser evil to a perpetuation of a persistence in the present jury system without qualification, restriction, or amendment.

I have, &c.

(signed) *C. R. Ogden*,
Attorney-General.

The Hon. Charles Buller, M.P.
Chief Secretary, &c.

Extract of a DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 25 September 1838.

Previous communications from me will have made your Lordship aware of the very injurious effects upon the course of my Government occasioned, more or less, by all the proceedings, with respect to my mission, which have taken place in the House of Lords since my departure from England. The representations that I have made to you upon this subject were but the echo of the public voice in these colonies, where all men, of whatever class or party, were agreed in thinking, that unless I should be cordially supported by the Legislature, which had created most extraordinary powers of Government for this country, and by the Ministers of the Crown, who had placed that extreme authority in my hands, there was not the slightest prospect of any satisfactory result. The proceedings in the House of Lords, from the moment of my leaving the shores of England, showed but too distinctly that the support so essential to my success was not extended to me; I allude in particular to the speech of the Duke of Wellington on the

4th of July, and to the expressive silence of the Prime Minister on that occasion. His Grace was pleased to say, "The Act gives no power further than that of making certain reports on an important subject respecting the Government of Canada, and of directing the formation of a commission of inquiry for that purpose; in any other respect, so far as my recollection serves me, I know of no other powers given to the Earl of Durham which are not ordinarily given to every Governor of a colony." * * * * * * * * * * * * * * * * * When the leaders of those two great parties, the one by the most unqualified expressions, and the other by consenting silence, concurred in depreciating the authority with which I had been invested, that authority was seriously weakened. The effect upon the public mind was instantaneous and most remarkable: the disaffected, and how numerous these are your Lordship will have learned from my despatch of the 9th August, were encouraged to believe that as my authority was so questioned, the manner in which it had been or might be exercised would to a certainty be vigorously assailed by the Opposition and feebly defended by the Government; and they inferred that the success of my mission, which, as all parties at home had allowed when the danger was imminent, and all here still felt, depended on the vigorous exercise of an extraordinary authority, was thus rendered next to impossible. In forty-eight hours after the speech attributed to the Duke of Wellington had been published here, the tone of that part of the press which represents the disaffected exhibited a remarkable change, giving evidence no longer of submission, however unwilling, to extraordinary powers unhesitatingly exercised, but of discontent, irritation, and seditious hopes. From that time forth, too, down to this day, I have continually received intimations of a state of feeling amongst the Canadian peasantry of the district of Montreal, which threatens, if not actual disturbances during the winter, still so much combination of purpose and means amongst the disaffected as to require the utmost vigilance on the part of Government. Nor did the Duke of Wellington's speech and Lord Melbourne's silence on that occasion produce a less mischievous effect upon the great bulk of the British race in this colony. As respects this class, the first impression created by this evidence of my being left without adequate support at home, was one of despondency. I can speak almost from my own personal knowledge of numbers, including gentlemen of the most respectable character and highest influence, who had entered into all my views for the improvement of this much-neglected country, who were aware of my determination, so

far as it might depend upon me, to remove the causes, to dry up the very source of past dissensions, and to render this colony essentially British in its laws, institutions, and character: who had, merely on account of those views and intentions, afforded me their confiding support; and who were employing their valuable influence in diverting public attention from the miserable past, and endeavouring to fix it on a happy prospect of peace and prosperity. These gentlemen, when the news in question arrived from England, when they perceived that I was left alone to struggle with unparalleled difficulties, could no longer rely on the accomplishment of any of the important measures that I had projected. They were therefore led most naturally, as it appears to me, instead of looking with confidence to the future, first to despair of any fruit from my exertions, and next to recur to the past with feelings of irritation as violent as were ever produced amongst the British race in this colony by the worst previous sacrifice of colonial interests to the objects of mere party in the mother country. Such is the unanimity of opinion and feeling amongst the British population of this colony, that the individuals whom I have described fairly represent the whole class. The despondency and irritation of that class were as conspicuous as the half-elated and threatening activity of the disaffected portion of the French Canadians. Such was the effect produced upon both classes (that is, upon the great bulk of the people) by the party proceedings at home.

Although I happened to be suffering from severe illness during the period in which this change of feeling was in course of taking place, I was constantly informed of its progress; and I must not conceal from your Lordship, that this information had a most discouraging effect upon myself. It soon became plain to me, that the great difficulties necessarily attendant on my position, were fearfully increased by the assaults made upon my government by the opposition at home, and tacitly (when not even in a still more injurious mode) suffered by Her Majesty's Ministers. Upon two things alone could I chiefly rely for ultimate success. The first was, the great extent of the legal powers conferred upon me, enhanced as they had been morally by the universal expression in England of satisfaction at my having undertaken to exercise them. The second was the impression, which prevailed throughout these colonies, that I might reckon with perfect confidence on the undeviating approval and support of the members of Her Majesty's Government, with most of whom I had been so long and intimately connected, as well by personal friendship as by political relations. By the proceedings in question I was

deprived of these, the only, but all-sufficient grounds of confidence in my own exertions. Your Lordship may believe that the people of these colonies are not better acquainted with the springs and influences of party politics in England than are most English politicians with the real state of parties and public affairs in this distant part of the world. You will easily understand, therefore, that no sufficient allowance was made here for the nature of those party motives which had dictated the proceedings of the Opposition and the Government in respect to my mission. It was supposed that the great party in opposition at home really believed my authority to be no more extensive than that of an ordinary governor in ordinary times; that Her Majesty's Ministers were of a similar opinion; that all my promises of unusual measures suited to the unusual circumstances of the case, had been made inadvertently or delusively; and that I had no more prospect of healing the wounds inflicted on this country by a long course of shifting and temporizing policy, than if the Act for suspending a constitution, and conferring legislative powers on an individual, had never passed. In fact, whatever may be the powers which that Act legally confers upon me, the moral authority of my government, the *prestige*, if I may so speak, of power, once imagined to be so great, and of a supposed unbounded influence with Her Majesty's Government, was gone, apparently for ever. Under these circumstances, I was greatly tempted to resign an authority which appeared to have become inadequate to the grave emergency which alone had called for its existence. I did not, however, give way to this sentiment of despair. On the contrary, making all allowance for party motives, which could not be appreciated by the people of these colonies; trusting that the approaching recess of Parliament would soon leave me undisturbed to pursue the useful course on which I had already determined; relying not a little on the early promulgation here of legislative measures calculated to encourage British enterprize and promote general prosperity; and above all, influenced by a conviction that the worst consequences might result from my resignation; I deemed it my duty to the Queen, to my country, and to the people of these colonies, who had generously confided in my good intentions, to persevere in my course so long as there was the least chance of success. Thus impelled, I banished every thought of resignation, and occupied myself more diligently than ever in bringing to maturity the whole series of measures by which I have hoped that these colonies might be established in peace and prosperity as a happy and loyal portion of the British empire. I was thus engaged when I received your Lordship's

despatches, conveying to me the most flattering expressions of the satisfaction which all my measures, including the proclamation and ordinances relating to the political prisoners, had given to Her Majesty's Government.

Those despatches were the more gratifying to me, inasmuch as they were accompanied by numerous unofficial letters from members of the Government, and especially by those from yourself and Lord Melbourne, whereby the expressions of official approbation were most warmly and kindly confirmed.

While those despatches and letters were still before me, an American newspaper, which had reached Quebec by the same conveyance, was placed in my hands. Your Lordship will judge of my astonishment, when I inform you that it contained a report of the proceedings in the House of Lords on the 7th, 9th, and 10th of August.

At present no other information on the subject has reached me.

I shall abstain, until officially informed, from entering at any length on that important subject ; meanwhile, however, it behoves me to assure your Lordship that public opinion here does not wait for the receipt of official intelligence on matters of vital moment to the interests of all ; and that it has been most deeply affected by the sufficiently authentic intelligence already received. I have had no choice (as I shall fully explain in a future despatch), but to declare whether or not I should resign my now useless office. As your Lordship will perceive, by the documents which I have the honour to enclose (being an address to myself from the delegates of the Colonies of Nova Scotia, New Brunswick, and Prince Edward's Island, with my answer), I have resolved on resigning an authority which has now, indeed, become thoroughly inadequate to the ends for which it was created, and on quitting a post which has been rendered altogether untenable by those from whom I expected every possible assistance in maintaining it.

I shall not lose a moment, after hearing officially of the recent proceedings in England, in fully explaining to your Lordship the reasons for my having arrived at this determination, and the grounds on which I may, after ample deliberation, decide upon the time for carrying it into effect.

(Enclosures.)

ADDRESS of the Delegations from the Eastern Colonies to His Excellency the Governor-General.

IN approaching your Lordship on the eve of our departure from Quebec, we beg unanimously to offer to your Lordship the expression of our highest respect, and of the deep concern with which we have heard of your Lordship's rumoured intention to resign the government of these Provinces.

The duties of the mission with which we have been entrusted by the Lieutenant-governors of Nova Scotia, New Brunswick, and Prince Edward Island, and the frankness of communication permitted by your Lordship, have brought us into acquaintance with your Lordship's feelings and views in relation to British North America, and irresistibly impressed our minds with the conviction, that your Lordship cherishes an ardent desire to elevate the colonies committed to your government, and entertains conceptions calculated to render that desire effective.

In a review of the short period of the Government under your Lordship's personal direction, we behold your Lordship with that feeling, so congenial to Englishmen, which turns with repugnance from the shedding of blood on the scaffold, blending mercy with justice ; while returning tranquillity had already rewarded an administration conducted without the sacrifice of one human life ; and we were aware that improved laws and institutions were in preparation, which under a Government, firm, mild, and impartial, gave to the future the reasonable prospect of restored confidence and renovated prosperity.

In the provinces with which we are personally connected, we saw in the warm interest, the enlightened and comprehensive views, and extensive powers of your Lordship, the dawning of vigour and improvement hitherto unknown. With your Lordship's departure those anticipations will we fear fade away ; but although it should be our lot to see these provinces coutinue feeble and nerveless compared with the condition at which their natural advantages entitle them to aim, yet shall we ever remember with gratitude the statesman who, exalted in the first rank, and treading on the highest eminences of political life in our common country, hesitated not, at the call of his Sovereign, with disinterested zeal to undertake an office of unparalleled difficulty, and has given to these distant territories the benefit of his enlarged experience and vigorous conceptions. Your Lordship's comprehensive mind has opened

to our view the animating prospect of great public improvements, advancing our common welfare, and which will ever associate your Lordship's name with the highest prosperity of the colonies.

We are unwilling to abandon the hope that your Lordship may yet continue in the administration of your high office.

Under any circumstances we beg to assure your Lordship, that our most ardent wishes for the happiness of the Countess of Durham, your Lordship and family, will accompany you through life.

(signed) *J. W. Johnston*, M. Leg. Coun. Nova Scotia ;
J. B. Uniacke, Member for Co. of Cape Breton, and Member of Council ;
Wm. Young, Member of Assembly, Co. Inverness ;
M. B. Almon, Deputation from Nova Scotia.
Chas. Simmonds, Mem. Ex. Coun. and Speaker of the Assembly, New Brunswick ;
Henry Peters, Leg. Council.
E. Botsford, Mem. Leg. and Ex. Coun. ;
Hugh Johnston, M. Ex. Coun. and House of Assembly ;
James Kirk ;
John Robertson, Deputation from New Brunswick.
J. H. Haviland, Mem. Leg. and Ex. Councils ;
Geo. Dalrymple, Speaker H. of Assembly ;
Jos. Pope, Member of Assembly of Prince County ;
Deputation from Prince Edward Island.

Quebec, 22 September 1838.

ANSWER to the Address.

IT is impossible for me to express to you in language sufficiently strong, the feelings of gratitude and pleasure with which I have received this address.

Representing as you do so worthily, the three Provinces of Nova Scotia, New Brunswick, and Prince Edward Island, this proof of your confidence in me, and approbation of the principles on which my administration has been conducted, is most gratifying to me.

I assumed the Government of the North American Pro-

vinces, with the predetermination to provide for the future welfare and prosperity of them all ; never doubting that such a provision would be the best, nay the only, real security for their permanent connection with the British Crown.

In communications which have taken place between us, and from which I have derived equal pleasure and information, you have been fully apprized of my views and intentions.

These you have appreciated and recognized in a manner for which I can never be sufficiently grateful. I have indeed had a difficult and laborious duty to perform. The result of my endeavours is one, however, of which I need not be ashamed. In the short space of little more than three months I have seen tranquillity restored and confidence reviving. I have caused substantial justice to be administered, tempered by mercy. I have carefully examined, with a view to reformation, all the institutions of the province more immediately committed to my charge ; and I was on the point of promulgating such laws as would have afforded protection to all those great British interests which have been too long neglected.

I had also, as you well know, devoted the most careful attention to all subjects which could affect the general interests of all the colonies, and had brought nearly to maturity the plan, which I intended in the first instance to submit to the consideration of the provinces, and eventually of the Cabinet and Imperial Parliament.

In this, I trust useful, course, I have been suddenly arrested by the interference of a branch of the British Legislature, in which the responsible advisers of the Crown have deemed it their duty to acquiesce. Under these circumstances I have but one step to take—to resign that authority, the exercise of which has thus been so weakened as to render it totally inadequate to the grave emergency which alone called for its existence.

Be assured, however, of this, Gentlemen, that this unexpected and abrupt termination of the official connection which united me with the North American Provinces, will not weaken in my mind the feelings of deep interest which I shall ever take in their fate, or render me less anxious to devote every faculty of my mind, every influence I may possess, to the advancement of their interests, and to the establishment, on the most lasting foundation, of their welfare and prosperity.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 26 September 1838.

My Lord,

The late debate in the House of Lords, and the observations which have been made there upon the Ordinance passed by the Special Council of this province subjecting the State prisoners to transportation to Bermuda, imperatively call on me to submit to you a statement of my views upon the legality of that Ordinance, and of the grounds upon which, with every deference to the House of Peers and the high legal authorities who are asserted to have declared its illegality, I venture to maintain that no part of that Ordinance is in itself illegal, however inoperative it might, and must of necessity, be, without the assistance and co-operation of the Home Government and the British Parliament, or the Legislature of the Bermudas under the sanction of Her Majesty's Ministers.

The Imperial Statute 5 Geo. 4, c. 84, s. 3, provides that his Majesty in Privy Council may appoint any place beyond the seas, either within or without his dominions, to which felons and other offenders under sentence or order of transportation or banishment shall be conveyed. It provides for the imprisonment of such offenders, their conveyance either in contract vessels or in Her Majesty's ships, their punishment for misconduct on the voyage, their delivery to the governor of the colony to which they may be sent, and their safe custody after arrival.

Section 17 recites, that by law, in some of the colonies, offenders convicted of certain offences are liable to be transported beyond the seas, and that there may be no means of transporting such convicts to any of the places appointed by "his" Majesty in that behalf without first bringing them to England; and it then provides that such convicts, when brought to England, may be imprisoned in any place of confinement under that Act, and so soon as he shall be so imprisoned, all the provisions of that Act shall be applicable to every such convict as if convicted and sentenced in England. No provision is by this Act made for their treatment up to their being brought to England; that is left to the local legislatures.

The Imperial Statute 6 Geo. 4, c. 69, s. 4, provides that "His Majesty," by any Order in Council, may authorize the governors, &c. for the time being of any of the colonies, to appoint the place within "his" Majesty's dominions, to which offenders convicted in any such colony, and being under sen-

tence or order of transportation, shall be sent or transported ; and provides that such convicts at the place to which they may be transported, shall be subject to the same laws as other convicts; but it makes no provision for their transport or their treatment on the voyage to England,—that is still left to the local legislatures, at least there is no other mode of providing for it.

Under these Acts an Order in Council was issued on the 11th of November 1825, directing that all governors of the colonies for the time being should from time to time appoint the places to which convicted offenders should be transported.

Lord Gosford, on the 7th of October, 1835, issued his proclamation appointing such convicts to be sent to England, and from thence to New South Wales and Van Diemen's Land.

The Provincial Legislature by Act 6 W. 4, c. 1, continued by Ordinance of 1 Vict., c. 8, provided, that " whenever any offender shall have been lawfully sentenced by any of His Majesty's courts in this province, other than courts martial, to transportation, it shall be lawful for the governor for the time being from time to time to cause any such convict to be removed from any place of confinement in this province to any other safe place of custody" (it does not repeat " in this province"), " and thence to be sent to England, to be there imprisoned according to the provisions of 5 Geo. 4, c. 84, s. 17, to be thereafter transported to New South Wales or Van Diemen's Land." The Act authorizes contracts for their safe transport to England ; and, by sect. 6, enacts that after the delivery of any such convict to the contractor, " his transportation to England, safe custody, treatment, and confinement, until delivered to the authorities in England, shall be regulated to all intents and purposes by the provisions of 5 Geo. 4, c. 84."

This Act, although authorizing imprisonment, and directing a certain mode of treatment upon the high seas, was not thought to exceed the powers of the Provincial Legislature, and was sanctioned and approved by her Majesty's Ministers. These several provisions, however, only applying to the case of persons convicted in courts of law, of offences, were not in force as to the State prisoners who confessed their participation in the treasonable practices of which they were accused, but they afforded a sufficient guide in an emergency beyond the scope of all ordinary law.

If the British Parliament could authorize the Sovereign to name any place of transportation beyond the seas, out of the British dominions, it would seem not less within the authority of the Provincial Legislature to appoint a place of banish-

ment not within the local limits of their authority, but within Her Majesty's dominions, which had been frequently used as a place of transportation from this colony, and at which hulks are now kept for the reception of convicts, and to which it appears by Lord Aberdeen's circular despatch of the 2d of March 1835, relative to transportation from the colonies, such offenders as may be specially selected by the Home Secretary may still be sent. I need scarcely notice that this last despatch was by no means restrictive of my power in respect to the State prisoners, as to whom your Lordship's instructions expressly suggest the substitution of transportation and banishment from the province in lieu of capital punishment.

The power of the colonial governments to punish by transportation is indisputable, and its frequent exercise is recognised by the recital in sect. 17 of the Imperial Statute 5 Geo. 4, c. 84, already cited ; for, if by the law of the colonies, convicts can be subject to transportation beyond seas, the Legislatures of such colonies must have power to pass such laws.

I, as Governor-general and Governor-in-chief of Canada, had a power to appoint the place to which any person should be transported who was convicted of a transportable offence, or who, being capitally convicted, should assent to such commutation of his punishment ; and I had at my disposal the immediate means of transport to any place within the command of the admiral on the Halifax station, and the previous assent of the admiral to give every facility within his power.

The Legislature which had the power to suspend the Habeas Corpus Act, and to place the whole country under the operation of martial law, to substitute a drum-head court martial of volunteers for a trial by jury in the ordinary courts of justice in the country, if they had thought it necessary to exercise it (and the Executive Government alone did, in fact, exercise it), had an equal power (it would be contending for little to say an equally constitutional right) to subject to punishment those who admitted that they had offended against the laws of their country, and who prayed to be spared a public trial, to which the public interest was alike opposed ; the Legislature had an equal power, by law, to pass an Act of Attainder, with or without forfeiture of property, and with or without examining further witnesses, as they might think most likely to conduce to the benefit of the public and the tranquillity of the province, against the associates of those who pleaded guilty, and who had fled from the pursuit of justice to a foreign country.

Whatever power was vested in the assembled Legislature of this province before the recent troubles, was vested in me,

and the Special Council, by the Imperial Statute 1 Vict., c. 9, so far as that Act did not expressly circumscribe the power which it originated. I have yet to learn that the Ordinance of 2 Vict., c. 1 (now disallowed), in imposing the penalty of transportation to Bermuda on the State offenders, violated any one of the restrictive clauses of the Imperial Act. With the question in a constitutional point of view, it is not my purpose in this place to deal; my arguments are directed merely to the legality of the Ordinance, to show that (whether inoperative or not in any respect) it is not illegal; to show that the Legislature of Lower Canada, as constituted by the Imperial Parliament, kept within the limits of its authority.

I contend, then, with every deference for those who may have expressed a contrary opinion, that the Legislature of Lower Canada had a legal right to transport any offenders to Bermuda, and under that authority to convey them there, if they had "the means" (as much as to send them to England and to provide "the means"), and there to leave such offenders, liable to such restraints as it might please Her Majesty to subject them to; but Her Majesty could only act through the constituted authorities. The constituted authority here was the Governor, who, under the sanction of the Legislature of Lower Canada, conveyed them, by the means at his disposal, to the Bermudas. There the power of the Legislature of Lower Canada and of the Governor-general ceased. When the prisoners arrived at the Bermudas, it was the business of Her Majesty's Government, either through the Imperial Parliament, or through the local Legislature, to retain them there. It was perfectly well understood here, in the passing of the Ordinance, that there was no power in this Legislature to pass any laws which could be binding in the Bermudas, and the Ordinance was confined to its recited object, "to provide for the present security of this province, by effectually preventing the several persons named in it from being at large therein."

It was foreseen that the Governor of the Bermudas might have refused his assistance in this emergency, and have declined to allow the prisoners to be landed, or, if landed, might have instantly released them, or, if not, that before Her Majesty could procure any laws to be passed, subjecting the parties to the necessary restraints to prevent their return, the parties might apply to the courts of the Bermudas for their writs of habeas corpus, and might be enlarged and quit the islands to return. Opposition to an Ordinance intended as, and being in fact, an extension of Her Majesty's mercy

towards the individuals who were the object of it, would probably have weakened the claim to a future permission to return to the province, a permission which, if the British Parliament had adopted and continued the Ordinance, would have become of the utmost importance to the persons transported; but the "present security" of the province was further guarded by a severe penalty (not, as is evident from the Ordinance, to be inflicted without trial) upon such as should return without due permission. As the Ordinance stands, coupled with the 1 Victoria, cap. 9, it imposes banishment for four years from the province, under the penalty of death. The returning from transportation before the period for which it is inflicted, is subjected to capital punishment by many provincial statutes, in cases where the original offence is not so punishable. To have imposed a lesser penalty would have been to lessen the original offence of treason, which those transported had admitted.

In conclusion, I maintain that in no respect is the Ordinance illegal, although in part it might have been inoperative without the co-operation of Her Majesty's Ministers and the British Legislature. Instead of waiting for the express directions of the Government, I determined, for the sake of tranquillizing the province, to anticipate such co-operation, and to remove the prisoners instantly.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St Lewis, Quebec, 28 September 1838.

My Lord,

I had the honour to receive, on the evening of the day before yesterday, your Lordship's despatch of August 18th, with its enclosures. That communication was accompanied by private letters, and by full reports of the recent proceedings in both Houses of Parliament with respect to my mission.

The information thus supplied enables me to fulfil the promise made in my despatch of the 25th instant, of fully explaining to your Lordship the grounds on which I had determined to resign my commissions of High Commissioner and Governor-general of Her Majesty's Colonies in North America.

The Act of mere Indemnity, which has pased the British Legislature, no doubt differs very materially, as your Lordship observes, from the Bill introduced by Lord Brougham. The Bill would have placed such restrictions on my authority as to deprive me of the legal power indispensable to the temporary government of this distracted country. The Act only purports to save me harmless from the consequences of a measure declared to have been illegal. Still my position has been, morally and practically, so much weakened as to be no longer tenable, with a hope of beneficial results. But I will not detain your Lordship, by drawing any further comparison between the Bill that was proposed and the Act that has passed; the latter measure is now irrevocable, and must be considered on its own merits. It is only in that point of view, which, however, does not exclude any of the Parliamentary proceedings which resulted in the passing of the Act, that I request your Lordship's attention to the following observations on the subject.

Your Lordship informs me, that "Her Majesty's Government felt it their duty to offer a decided opposition" to the second reading of the Bill introduced by Lord Brougham; but in what, I venture to ask, did that opposition result? in a concession far more calculated, as it appears to me, to weaken my hands, than would have been any vote of the House of Lords; in which, it is notorious, that Her Majesty's Government have never commanded a majority. A vote of the House of Lords, adverse to Her Majesty's Government, or merely condemnatory of any proceeding of mine, would have been considered almost as a matter of course, in the present state of parties; and would, if it had been decidedly opposed by the Ministers, have left my authority untouched, because it would have been attributed to the mere party motives of a powerful opposition. Supposing that such a vote had passed, there would have remained the House of Commons, where I am bound to presume that a measure, decidedly opposed by Her Majesty's Ministers, would not have been adopted. In that case, the Parliamentary proceedings on this subject would but have resembled many others which have occurred of late years, and which have left the Government unharmed by a hostile proceeding of the House of Lords. In that case, I should have suffered no greater inconvenience than such as any Government must be subject to, which is vigorously and almost constantly opposed by a majority in the Upper House. As respects these colonies, I do believe that the inconvenience would not have been very great; because the adverse pro-

ceeding would have been attributed altogether to the state of parties in England, and would have been considered as foreign to the state of affairs in this part of the world. But at all events, in that case, my acts and my authority would have been supported by the House of Commons and the Crown. How different is my actual position! In order to stop hostile proceedings in the House of Lords—(for after your Lordship's despatches, approving of all my measures, I can discover no other motive for the step)—Her Majesty's Ministers determine on advising the Crown to render abortive the most important act of my government. The Crown therefore, whose representative I am, condemns me on the ground that I have acted illegally. But this is not all; the manner of the condemnation requires (at least, so it is supposed by those who advised it), that I should be saved harmless from the consequences of the measure which, whatever it may have been before, they render null and void. They imagine that I require such a shield; they think that, without it, the prisoners now in Bermuda, whom I refused to subject to the jurisdiction of such a tribunal as would assuredly have condemned them to death,—whose property as well as lives I spared,—whom I saved from the ignominy of transportation as convicts,—whose parole of honour I took as sufficient security for their not attempting to escape,—that these men are to sue me for damages for such treatment. This is the opinion of Her Majesty's Ministers; and therefore, having disallowed the Ordinance, they support, in both Houses, the Bill of Indemnity. The condemnation of the most important measure of my government has thus become the act of the whole British Legislature. In addition to all this, the Act requires that it should be proclaimed here; and I am thus compelled, unless I should instantly resign, to join in the condemnation that has been passed on me by the Crown, the Lords, and the Commons. I may surely be permitted to think, that adverse votes of the House of Lords would have been infinitely preferable to the course which has been taken in order to avert that evil.

Being determined above all things that no personal feeling or consideration shall have any influence on my conduct in the present state of public affairs in this colony, I shall proclaim the Act of indemnity in the next official gazette. If I resigned immediately, that duty would be imposed on the administrator of this Government. The reasons which induce me to abstain from resigning at present will be stated hereafter. Meanwhile, I have to explain the grounds on which it appears to me that my permanent occupation of this

government would be rather injurious than beneficial to Her Majesty's service.

In my anxious examination of this question, I have endeavoured to disregard the past, excepting as it affects the future. By this course I have hoped to gain two advantages: first, that of simplifying the subject; and secondly, which is far more important, that of preventing the intrusion of wounded personal feelings into a deliberation which should be conducted solely with a view to public objects.

Recurring to the past, then, only as it bears on the future, I am desirous to point out, what seems to have been overlooked by everybody in England, that the particular measure which has been condemned forms but a part, though a very important one, of the whole policy which was proclaimed by the Ordinance of the Special Council, and the Proclamation of Amnesty issued on the day of Her Majesty's coronation. That policy was not indicated by either of those measures separately. The two measures were indeed one, having been divided into two parts, merely for the purpose of imposing on the Governor and Council all that required legislation and was of a penal character, and of making all that partook of mercy and kindness the act of the Queen. Nor was the whole policy proclaimed on that day to be found in the Ordinance and Proclamation alone. The official gazette, in which those documents were published, contained a most unusual announcement in the following terms: "We are authorized to state that his Excellency the Governor-general is actively engaged in the preparation of measures which will, as soon as may be possible, be embodied in ordinances of the Governor and Special Council, relative to a jury law, a bankrupt law, the judicial and municipal institutions of the whole province, general education, the establishment of registry offices, and the equitable commutation of feudal tenures." If it had been possible to prepare measures of this kind in time, they would have appeared in the form of ordinances on the same day as the Proclamation of Amnesty. But the promise was considered sufficient to indicate my sense of the necessity of very important changes in the civil and municipal law of the province. The whole policy which I intended to pursue was embodied in that promise, in the amnesty, and in that part of the preamble of the Proclamation wherein is asserted Her Majesty's "firm resolve to punish with the utmost severity any *future* act of insurbordination, and more especially to prevent in future the occurrence of dissensions similar to those by which the province had been disturbed, by effectually removing all *causes* of dissension, so that the province might

be established in peace as a loyal and truly *British* colony." I had made up my mind, it was evident, to the necessity of rendering the institutions of this province thoroughly British, But it was also plain, I hope, that admitting, as to the future, the necessity of measures which would be unpalatable to the majority of French Canadians, I was desirous to deal very leniently with such of them as had by their past conduct become amenable to severe punishment. As to the past I proclaimed forgiveness and oblivion; as to the future, British institutions; as to the present, security against the disaffected. The only provision for the security of the colony has been rendered null. Moreover, since the different parts of the whole scheme of policy were intimately blended with and dependent on each other, the destruction of one portion of it affects all the rest, not merely by giving a triumph to the disaffected generally, and allowing the worst of them an opportunity to play over again their part as leaders in a rebellion, but also (and this is the main consideration) by showing that no reliance is to be placed upon the validity of any law, or the performance of any engagement, proceeding from the extraordinary authority which has been created for the temporary government of this country. If I have described my own policy aright, I shall not err in representing that of the Imperial Government as one productive of insecurity at present, and of doubt, uncertainty, and want of confidence as to the future.

The particular defect of the Ordinance, which has led to the disallowance of the whole of it, was occasioned by no oversight of the Extraordinary Legislature of Lower Canada. I believed, and still believe, for the reasons assigned by me in my despatch of the 26th inst. that, by the legislative powers entrusted to that body, we were authorized to banish persons from the province, and that, according to a constant course of precedents furnished by the legislation of the province, our power extended to the custody and disposal of provincial prisoners while on the high seas, and to landing them on the shore of Bermuda, or of any other portion of the globe in which free access to strangers is allowed by the municipal laws. Further, it was well known to us, our jurisdiction did not extend; once landed in Bermuda, the prisoners were subject only to the laws of that Island. It was known that they would not arrive there as convicts, (especial pains had been taken to spare them that indignity,) and that the laws, therefore, which held good with regard to ordinary convicts would not apply to them. It was known that they could be forcibly detained within the precincts of Bermuda only by provisions to be made for that purpose by the legislature of the Island, or by the Imperial Parliament.

The words of the Ordinance, which authorized Her Majesty to impose restraints on the prisoners in a colony not subject to our jurisdiction, could give Her Majesty no power which she did not possess before. It was never supposed that they could: and that part of the Ordinance was passed with a perfect knowledge that it was wholly inoperative, and that the prisoners could not be compelled to remain in Bermuda, without the adoption of measures in aid of our legislation by the authorities of the island, or of the empire. The words were inserted for the double purpose of showing that the prisoners were not to be subjected to the ordinary treatment of ordinary convicts, and of relieving the loyal inhabitants of the province from the apprehension of the immediate return of these dangerous persons to its limits, or its vicinity.

As it happened, however, the object of the provision in question was attained in spite of its legal inadequacy; for the detention of the prisoners in Bermuda was secured by their voluntary parole.

Except for the purposes I have mentioned, the words objected to were, in fact, mere surplusage. If, as common sense points out, they were merely inoperative, their insertion is a matter of no importance. If the lawyers are technically right in confounding two very distinct words and ideas, and describing as illegal all legislative provisions which are obviously inoperative, it may be inferred that Her Majesty could not give her sanction to this enactment, and that the disallowance of the Ordinances was a matter of technical necessity. But in either case, it was the business of a wise government and legislature to correct the errors or supply the imperfections which had their origin in a zeal for humanity and for the integrity of the empire. I speak of a policy, of which the leading features and animating spirit have now been sanctioned by almost universal assent. It has hardly been impugned even in this province, by those whose friends I could not entirely relieve from all punishment for rebellion, or those whose sense of justice I shocked not a little by the supposed inadequacy of my penalties. It has been generally and cordially approved, even in its details, by the people of the neighbouring states, the people in the world the most competent to judge without passion of the local necessities of the case, and not the least ardent in their love of freedom and their respect for the law. It has not, even amid the acrimony of party debates at home, been denied by any person whose opinion has any weight with any body, to possess the merits (all by which I set much store) of substantial justice, mercy, and sound discretion. A government and legislature anxious for the tranquillity of this

wretched country, for the interests of humanity, for the honour of the British Crown, would not have lightly foregone the benefits which such a policy promised, and had already in great measure secured. They would have taken good care that its great and beneficent purpose should not be frustrated by any error which they could rectify, or by the want of any power which they could supply. If they found the Ordinance inoperative, they would have given it effect; if illegal, they would have made it law.

Instead of this, Her Majesty's Ministers, at the instance of a branch of the Legislature, have decided on disallowing the whole Ordinance; and in place of finding the co-operation which I had a right to expect, I am favoured with an Act of Indemnity, for which I can be thankful, only because it purports to relieve others from any penalty incurred by their ready acquiescence in my views. The disallowance of the Ordinance has, I repeat, rendered null all the repressive portion of my policy; it has also, by extending a complete pardon to all, deprived me, who do not shrink from the ungracious task of framing measures obnoxious to one class of the people, of the power to make them some compensation by further acts of grace and kindness. Finally, it overthrows all confidence in my engagements; it deprives my pledged word of all weight and value. I should now legislate, if at all, with the expectation, that each measure would be scanned and criticised in a hostile spirit, and not improbably rendered abortive by the supreme authority. A delegated authority, when not sustained by the power that has bestowed it, loses all moral force: and I need not remind your Lordship that a government of mere physical force is neither possible on this continent, nor would be otherwise than wholly inconsistent with my feelings and opinions. Therefore, I am satisfied that the proceedings of the Government at home entirely preclude me from carrying out the policy which I had proclaimed, and on which I have acted. I could not adopt a new policy now without bringing ridicule on all concerned. I am thus disabled from rendering any important service to the public in my present situation. By retaining an authority which has become merely nominal as regards the great purposes for which it was created, I should wilfully delude the public with false hopes, and deliberately provide for a more bitter disappointment. These are the main grounds on which I persevere in the determination of resigning, announced to your Lordship in my Despatch of the 25th instant.

But these, though the principal, are not the only reasons, which induce me to resign. The late proceedings at home

have not merely, by destroying the moral power of my government, deprived me of the necessary means of carrying into effect a policy, of which the Ordinance in question was a small though essential part; but have, by the disallowance of that particular measure, imposed on the government of this province the most serious practical difficulties. I have already called your Lordship's attention to the fact, that the disallowance of the Ordinance annuls all the measures of precaution and punishment which I have adopted; and that the universal operation of Her Majesty's Proclamation of Amnesty, limited by no exceptions save those now invalidated, establishes an impunity absolutely co-extensive with crime, and places the leaders of the rebellion precisely in the same situation as that which they occupied before their recent unsuccessful attempt. I find that this result was not wholly overlooked in the debates in Parliament; and that it was suggested that some precautions should be taken by the authority, which invalidated our acts, to avert the mischief thereby occasioned. Though much was said, however, nothing has been done: the work is left to be performed by the provincial legislature: and your Lordship is kind enough to suggest the course which you think it advisable that we should adopt in the present emergency. The question of the disposal of the persons implicated in the late insurrection, was one originally foreign to my mission, an obstacle left in my path by previous neglect in one quarter or another. I succeeded in removing it: the effects of its existence had been effaced. It is now placed in my way once more; with this additional disadvantage, that, having all that is difficult and odious to do over again, I have lost the power of accompanying it by an act of grace. I have to punish without pardoning; and justice having been now baulked of its due, I am to execute whatever vengeance the interposition of the Home Authorities may have left within my reach.

The suggestions made by your Lordship appear to me liable not only to this, but to other objections. Her Majesty's Government feeling it their duty, as you say, "to leave me in no uncertainty as to their views on the course which it may be expedient now to adopt with regard to the persons, who, in consequence of the disallowance of the Ordinance, can no longer be liable to its provisions," suggest the passing another Ordinance, banishing from the province the eight persons who have been sent to Bermuda, and forbidding their return under some penalty "short of death."

Your Lordship appears in a subsequent passage to desire that such an Ordinance should apply to the whole of the

" persons whom, in the exercise of a sound and wise discretion, I have excepted from the amnesty." This would include Mr. Papineau, and the others, whom, being at large and absent from the province, the disallowed Ordinance had sentenced to banishment. But from a paragraph immediately following, which refers to the course practicable under an Ordinance of Sir John Colborne's, I am led to suppose that you look to a suspension of the Habeas Corpus Act as sufficient for effecting the exclusion of those dangerous persons.

If the Ordinance, which you propose, were to exclude only the eight persons now in Bermuda, it would be useless and iniquitous. There would be no justice in punishing Mr. Bouchette for being taken, while Mr. Gagnon, the companion of his guilty enterprize, is allowed to return unmolested to his home: or in dooming Dr. Wolfred Nelson to a severer lot than that assigned to his brother, who was not only guilty of treason previous to leaving the province, but has since invaded it at the head of an armed band of foreigners and refugees. If it be politic to allow Mr. Papineau to return, and resume his former course, it were surely a needless and petty cruelty to banish from their homes his bolder, and therefore less dangerous tools.

If the ordinance were to include Mr. Papineau, and the others who have been banished without a trial or confession of guilt, the ends of substantial justice would be attained in the same way as in the disallowed Ordinance; and the new Ordinance would be liable to the same objections as those urged against the former one. Your Lordship, I know, does not participate in these objections; but experience has shown me that it is necessary in the present times, for those exercising an arduous responsibility far from home, to look to the opinions, not only of the Ministers, but also of the Opposition. And in following a course similar to that, which has been already impugned by your Lordship's opponents in Parliament, I do not feel quite sure that the same power which has induced Her Majesty's Government to cancel an act, of which you had already declared their approbation, might not compel them to disallow the very course suggested by themselves.

The mere substitution of a milder punishment in place of that of death, would obviate none of the objections made on principle to the infliction of any penalty without trial. No one can imagine that capital punishment would ever have been wantonly inflicted by one who has deviated from the ordinary law, in order solely that he might exercise a more than

ordinary clemency. That penalty was denounced in the Ordinance because it seemed necessary, according to the general practice of civilized nations, to enforce submission to the second in the scale of penalties, by a threat of the highest. To call an act innocent in itself, by the name, and subject it to the penalties of treason, is not more revolting to strict notions of ordinary law, than to call it felony or misdemeanor, and punish it with banishment, imprisonment, or fine.

Your Lordship suggests that this new policy should be completed by a suspension of the habeas corpus. And such a measure I am aware has been suggested, as a matter of course, by some of those speakers in Parliament who profess most regard for the British constitution. I cannot bring myself to rate the great guarantee of personal liberty as so unimportant a part of the British constitution, or of those securities which should be possessed by every civilized community. On the contrary, I am inclined to think it quite as important, and quite as sacred from heedless and unnecessary violation as any, without exception, of the provisions made for fair and open trial. And I must own that I have seen, with no little regret, how much men's minds appear to have been familiarized with the idea of suspending the habeas corpus, by the frequency with which it has been done in the bad periods of our own history; and the consequent facility with which, in these debates, it seems to have been proposed as a mere matter of course by some of those who express the greatest horror at any deviation from what they call a constitutional course. To me, my Lord, it appears that men's notions of right and freedom would be much more shocked at such an universal violation of every man's dearest right, than by any summary process adopted for the punishment of the undeniable guilt of a few. I do not say that there are no circumstances under which I would consent to a suspension of the habeas corpus; I should not hesitate to adopt it in any emergency in which the notoriety of a general outbreak, or of a general purpose of insurrection, might render it advisable that a Government should be for a while armed with the power of arresting the objects of its suspicion, without bringing them to immediate trial. But I see no necessity on account of any existing evil in this province, for taking such a step now; and the present legislative authority of this province will be capable of being brought into immediate action at the moment in which any danger may declare itself. On no other ground can I consent to propose such a measure for adoption by the Special Council. I cannot think it justifiable to take away the franchises of a whole people in order to

punish a few known and dangerous individuals; or to guard against the misconduct of twenty-three men, by enveloping them in a general forfeiture of personal liberty.

Had your Lordship's suggestion of these measures been accompanied by positive instructions for their instant adoption, I should have felt that, in consequence of my insuperable repugnance to taking any part in them, it would be my duty to resign immediately the government of this province, and to give up my authority to a successor who would carry your orders into effect. But as you expressly state that you "do not intend to prescribe to me the precise course to which you have adverted, as that which under existing circumstances ought to be adopted," I conclude that you mean not in any way to fetter my discretion. I shall therefore pursue the course which, taking all the circumstances of the case into consideration, I regard as best calculated for the public service.

I do not instantly resign my authority, because I have made engagements and imposed upon myself obligations which it is absolutely necessary that I should fulfil. In my character of Governor-general, I have set on foot the reform of some practical grievances, which are among the many that have been long suffered by the people, and which I fear they might continue to suffer, if the governing hand which has first ventured to meddle with abuses in this country were suddenly withdrawn from the work of reformation. In some cases, both of individuals and of classes, I have held out hopes, and made virtual promises, to which every sense of honour and of truth commands me, as far as remains in my power, to give effect. In my character of High Commissioner, I have instituted inquiries, some of them relating to the whole of these colonies, and all to subjects of great importance. Considering the great expense necessarily incurred in carrying out the objects of my mission, and the lamentable want of information upon these subjects which prevails in the Imperial Legislature, I should take shame to myself if, except under some absolute necessity, I were to leave these inquiries incomplete. Above all, I am desirous that my mission should not prove fruitless as to its main object, namely, the preparation of a plan for the future government of this part of the British empire. Such a plan could only be framed upon ample information as to the wants, dispositions, and interests, as well conflicting as general, of every class of Her Majesty's subjects in these colonies. I have endeavoured to gain such information from all quarters, but have not yet completed that very arduous task. Still it is so near completion, that I cannot

bear to think of leaving it unfinished ; and if unfinished, productive of no other result than a waste of public money, of the laborious exertions of those whom I have employed, and of the patience of the people of these colonies, which, I do solemnly assure your Lordship, may be tried over much. I have no doubt that, in a few weeks more, nothing essential to this object will be left undone. I shall then return to England without loss of time, for the purpose of laying at the feet of the Queen the commissions of Governor-general and High Commissioner, with which Her Majesty has been graciously pleased to honour me ; and then, in my place in Parliament, at least, I may be able to render my mission productive of good, by satisfying the British people and Legislature of the absolute necessity of steadily pursuing towards these colonies, a very different policy from any that has yet been adopted by the parent state.

Even if I can do no other good there, I shall be able to use my experience of this colony in checking the too prevailing disposition of Parliament to decide on the vital interests of this distant community according to the principles of a constitution, and the feelings of a state of society the least analogous to those which prevail here. The government of these provinces requires something more than a knowledge of the common and statute law of England. Though the object of wise and benevolent statesmen should be to establish the great principles of the British constitution and the English law in this province, it must not be supposed that this is yet done ; and I trust that the acts of future Governors will be submitted to the decision of some more competent judges than those who profess to try such acts by the mere principles of English law. My acts have been despotic, because my delegated authority was despotic. Until I learn from some one better versed in the English language, that despotism means any thing but such an aggregation of the supreme executive and legislative authority in a single hand, as was deliberately made by Parliament in the Act which constituted my present powers, I shall not blush to hear that I have exercised a despotism : I shall feel anxious only to know how well and how wisely my countrymen think that I have used, or rather exhibited an intention of using, my great powers.

Nor shall I regret that I have wielded these despotic powers in a manner which, as an Englishman, I am anxious to declare utterly inconsistent with the British constitution, until I learn what are the constitutional principles that remain in force when a whole constitution is suspended ; what principles of the British constitution hold good in a country in which the

people's money is taken without the people's consent, where representative government is annihilated, where martial law has been the law of the land, and where the trial by jury exists only to defeat the ends of justice, and to provoke the righteous scorn and indignation of the community. I should indeed regret the want of applicability in my own principles of government, or my own incapacity for applying them, had the precise course which I should think it imperative on me to pursue in a land of freedom and of law, proved to be the only one that I could adopt in a country which long misgovernment and sad dissensions have brought to a condition that may fairly be described as one of constituted anarchy.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 29 September 1838.

My Lord,

IN reply to the observation made by your Lordship in your communication to me of the 18th ultimo, respecting the rumour of my having "erected a Court of Appeal," I would refer you to my despatch of the 30th of July last.

I have, in fact, created no new court of appeal, and made no alteration in the law under which the Executive Council sat as such court. The Court of Appeals here was originally constituted under a provincial ordinance of the Governor and Council, recognized by the imperial statute of 31 Geo. 3, c. 31, ss. 33 and 34, and was subsequently regulated by the provincial statute of 34 Geo. 3, c. 6, ss. 23, &c. This Act made "the Governor, the members of the Executive Council of this province, the chief justice thereof, and the chief justice to be appointed for the Court of King's Bench at Montreal, or any five of them," a court of appeal from the civil courts in all cases wherein an appeal by law is allowed in the province. Some doubts having arisen, during Sir Gordon Drummond's government, whether the members of the Executive Council, who were not appointed by mandamus from the Crown, could sit in the Court of Appeals, the matter was referred home by him, and (as I informed you in my former despatch) the opinion of the then attorney and solicitor-general was taken, which was in favour of their right to sit. It was communicated to the Government of Lower Canada in a despatch from Lord Bathurst of the 9th December 1815; and as it may be

more convenient than searching for it in the Colonial-office, I forward a copy of the despatch and opinion herewith. You will perceive from this that there has been no alteration in the law under which the Court of Appeals sits. The Executive Council is still the Court of Appeals. The only alteration in practice is, in having sworn in as executive councillors an additional number of judges, and not having summoned to the council, when it sat as a court of appeals only, such members as had received no legal education. Had I possessed the means and the power, I should have been glad to have given the province a completely competent and permanent court of appeals, consisting entirely of lawyers, for it is much wanted and called for, and forms one feature of the plan which I had in view for the future government of the provinces. This alteration of the practice was merely intended as a temporary expedient, grounded on the best means at my disposal. Its legality is not doubted here, and I repeat, it has given much satisfaction.

I have, &c.

(signed) *Durham.*

(Enclosures.)

Downing-street, 9 December 1815.

Sir,

Having referred to the consideration of His Majesty's Attorney and Solicitor-general your letter of the 22d July last, stating the doubts that have arisen whether the honorary members of the Executive Council are entitled to act as judges in the Court of Appeals, I herewith transmit to you the copy of their Report, dated the 16th ultimo, by which you will perceive that they are of opinion that honorary members of the Executive Council, when summoned, are duly qualified to sit as members of the Court of Appeals.

I have, &c.

(signed) *Bathurst.*

Lieut.-Gen. Sir Gordon Drummond,
&c. &c. &c.

2, Lincoln's-Inn, 16 November 1815.

My Lord,

We have had the honour to receive your Lordship's letter of the 2d ultimo, transmitting to us a letter from Lieut.-General Sir Gordon Drummond, dated Quebec, the 22d July last, stating that doubts have arisen whether the honorary members of the Executive Council are entitled to act as judges in the Court of Appeals, and referring to certain acts of the British and Colonial Legislatures on the subject. Your Lordship, by the command of his Royal Highness the Prince Regent, is pleased to desire that we will take the same into our consideration, and report to you our opinion of the case as stated by General Drummond.

In obedience to your Lordship's commands we have considered the same, and have the honour to report, that there is no distinction in the terms of the appointments of the regular and the honorary members of the Executive Council, except that the latter cannot attend unless specially summoned, and are not to receive any salary for their attendance. The oath administered to both, and the functions to be performed by both, when the latter are summoned, are the same, and no distinction is pointed out or alluded to in the statute of the 31 Geo. 3, or the colonial statutes; we, therefore, think that honorary members of the Executive Council, when summoned, are duly qualified to sit as members of the Court of Appeals.

We have, &c.

(signed) *W. Garrow.*
J. Shepherd.

Earl Bathurst, &c. &c. &c.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 6 October 1838.

My Lord,

I yesterday received an application from the commander of the forces for a further reinforcement from Nova Scotia. As Sir John Colborne considers this measure essential to the security of the province, I have had no hesitation in complying with his request; the more so, as it is in complete accordance with the reports made to me of the state of feeling which has been produced in the minds of the disaffected in

this province, by the late discussions and proceedings in the House of Lords.

I have, therefore, addressed a despatch to his Excellency Sir Colin Campbell, and have directed Her Majesty's ships, Malabar, Andromache, and Medea, to proceed without delay to Pictou, for the purpose of embarking the regiment which his Excellency may be enabled to order on this service.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 8 October 1838.

My Lord,

I have had the honour to receive your Lordship's despatch of the 5th ultimo, whereby you desire that I will express to you my judgment on the whole subject of escheat in the island of Prince Edward.

After perusing the voluminous documents enclosed with your Lordship's despatch, I do not feel that it is in my power to add any thing to the very full information on the subject, which those documents comprise. I, however, enclose copies of the evidence of Mr. Lelacheur, and of the Attorney-General and Lieut.-Governor of Prince Edward Island, recently given before the commission of inquiry respecting Crown lands and emigration; and I beg leave to add, that the delegates from the island, who lately visited me here, earnestly concur with Sir Charles Fitzroy in his view of the case.

The information before me is now so ample, that upon no matter of fact can I entertain a doubt. Nearly the whole island was alienated by the Crown in one day, in very large grants, chiefly to absentees, and upon conditions of settlement, which have been wholly disregarded. The extreme improvidence, I might say the reckless profusion, which dictated those grants, is obvious; the total neglect of the Government, as to enforcing the conditions of the grants, is not less so. The great bulk of the island is still possessed by absentees, who hold it as a sort of reversionary interest, which requires no present attention, but may become valuable some day or other through the growing wants of the inhabitants. But in the mean time, the inhabitants of the island are subjected to the greatest inconvenience, nay, to the most serious injury, from the state of property in land. The absent pro-

prietors neither improve the land themselves, nor will let others improve it. They retain the land, and keep it in a state of wilderness. Your Lordship can hardly conceive the degree of injury inflicted on a new settlement, by being hemmed in by wilderness land, which has been placed out of the control of Government, and is entirely neglected by its absent proprietors. This evil pervades British North America, and has been for many years past a subject of universal and bitter complaint. The same evil was felt in many of the states of the American Union, where, however, it has been remedied by taxation of a penal character; taxation, I mean, in the nature of a fine for the abatement of a nuisance. In Prince Edward Island this evil has attained its maximum. It has been long and loudly complained of, but without any effect. The people, their representative Assembly, the Legislative Council, and the Governor, have cordially concurred in devising a remedy for it. All their efforts, however, have proved in vain. Some influence—it cannot be that of equity or reason—has steadily counteracted the measures of the Colonial Legislature. I cannot imagine that it is any other influence than that of the absentee proprietors resident in England; and in saying so, I do but express the universal opinion of the colony. The only question, therefore, as it appears to me, is whether that influence shall prevail against the deliberate acts of the Colonial Legislature, and the universal complaints of the suffering colonists. I can have no doubt on the subject. My decided opinion is, that the Royal assent should no longer be withheld from tho Act of the Colonial Legislature.

At the same time, I doubt very much whether this Act wil prove a sufficient remedy for the evil in question. It was but natural that the Colonial Legislature, who have found it impossible, as yet, to obtain any remedy whatever, should hesitate to propose a sufficient one. Undeterred by any such consideration, relying on the cordial co-operation of He Majesty's Government and Parliament, in the work of improving the state of these colonies, I had intended, before the receipt of your Lordship's despatch, and still intend, to suggest a measure which, while it provides an effectual remedy for the evil suffered by the colonists, shall also prove advantageous to the absentee proprietors, by rendering their property more valuable. Whether the inhabitants of Prince Edward Island would prefer waiting for the now uncertain results of such a suggestion of mine, or that the Act which they have passed should be at once confirmed, I cannot tell; but I venture earnestly to recommend that Her Majesty's

Government should be guided by their wishes on the subject; and in order to ascertain these, I propose to transmit a copy of the present despatch to Sir Charles Fitzroy, with a request that he will, after consulting with the leading men of the colony, address your Lordship on the subject.

With respect to the "terms" proposed by the proprietors, I am clearly of opinion, that any such arrangement would be wholly inadequate to the end in view.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 9 Oct. 1838.

My Lord,

I have the honour to inclose your Lordship copies of an address from 4,287 of the inhabitants of Quebec, and of my answer.

I have, &c.

(signed) *Durham.*

(Enclosures.)

To His Excellency the Right Honourable John George Earl of Durham, Viscount Lambton, &c. &c. &c,

May it please your Excellency,

WE, Her Majesty's most dutiful and loyal subjects, inhabitants of the city of Quebec and its vicinity, considered it as a strong proof of Her Majesty's gracious attention to the happiness and prosperity of Her North American Provinces, that it had pleased Her Majesty to commit the government thereof to your Excellency, in whose firmness, justice, and integrity, we placed the highest confidence, assured that in your hands the powers of government would be directed to the true interests of the people.

With these sentiments we greeted the arrival of your Excellency, in the gratifying expectation, that whilst measures were adopted for the removal of the more immediate and pressing inconveniences arising from the suspension of the powers of the ordinary Legislature of this province, and for restoring tranquillity to the country, still suffering from the effects of a wicked and unprovoked rebellion, there would, under the auspices of your Excellency, be matured such a

system of government for the Canadas as would re-establish therein, upon a firm foundation, social order, advance their welfare and prosperity, strengthen the ties which connect them with the parent state, and unite them inseparably in sentiment as they are in interest with the powerful empire of which they form a part.

In the prosecution of the inquiries connected with this large and complicated subject, we cannot refrain from acknowledging with gratitude the unremitting exertions of your Excellency since your arrival.

It is, then, with the greatest concern we find that, whilst these important labours are in progress, circumstances have arisen which may lead to an unexpected and abrupt termination of your official connection with this and the adjoining provinces. We deeply lament the premature discussion in the British Parliament of the measures of your Excellency, and the course there taken, tending, as they have done, to weaken the moral influence of your government, to encourage the disaffected, and to create apprehensions in the minds of the loyal.

We looked forward with anxiety to the period when we should be put into possession of the result of your Excellency's labours, which it was hoped would lead to the establishment of an efficient system of government within the colony, protecting the rights of all classes of Her Majesty's subjects therein.

We are convinced that nothing could more have contributed to the advantageous settlement of this grave matter than the determination which your Excellency has been pleased to express, that you would communicate to the provinces, for their consideration, whatever plan your Excellency may form for this purpose before submitting it to the Cabinet and to the Imperial Parliament; thus affording to the inhabitants of these provinces an opportunity of conveying to your Excellency and to the supreme authority of the empire a frank and loyal expression of their sentiments thereupon.

Convinced of your Excellency's eminent endowments, and of your disposition to promote the great objects confided to you, and apprehensive of the consequences likely to arise from your withdrawing from the government of these provinces, we beg leave to express an earnest hope that, notwithstanding these unlooked for obstructions, your Excellency may be induced to continue to exercise the functions of your high office until you shall have accomplished the important end of your mission, for the attainment of which your Excellency may rely on our zealous co-operation.

If, however, your Excellency should entertain the conviction that you can no longer govern the colony with satisfaction to yourself, we feel assured that, upon your return to England, you will, in another sphere, render the information which you have acquired by your labours here, conducive to the establishment of the permanent peace and welfare of these provinces.

Answer.

I request you to accept my warmest thanks for this marked expression of your feelings towards me, and of your general confidence in my government.

I most solemnly assure you that no consideration should induce me to leave you, if I thought that my presence here could produce the least benefit, or avert the most trifling evil. I do not return to England from any feelings of disgust at the treatment I have personally experienced in the House of Lords. If I could have been influenced by any such motives, I must have re-embarked in the very ship which brought me out, for that system of Parliamentary persecution to which I allude commenced from the moment I left the shores of England.

I return for these reasons, and for these alone :—the proceedings in the House of Lords, acquiesced in by the Ministry, have deprived the government in this province of all moral power and consideration. They have reduced it to a state of executive nullity, and rendered it dependent on one branch of the Imperial Legislature for the immediate sanction of each separate measure; in truth and in effect, the government here is now administered by two or three peers from their places in Parliament. I cannot, therefore, consistently with what is due to the interests of this province and my own character, consent to make myself responsible for measures emanating from others, and which in my conscience I consider most injurious to your present tranquillity and future welfare.

In this novel and anomalous state of things, it would neither be for your advantage or mine that I should remain here. My post is where your interests are really decided upon. In Parliament I can defend your rights, declare your wants and wishes, and expose the impolicy and cruelty of proceedings which, whilst they are too liable to the imputation of having originated in personal animosity and party feeling, are also fraught with imminent danger to the welfare of these important

colonies, and the permanence of their connection with the British empire.

The restricted limits of this answer will not admit of my entering into the consideration of the various measures which had occupied my attention during my administration of your affairs; nor, indeed, is it necessary, for you will find in the Proclamation which I have this day issued, addressed to the North American Provinces under my government, the fullest information on all matters affecting your interests. I need, therefore, only assure you, that to the last hour of my existence you will find me your faithful and devoted friend, bound to you by the strongest ties, both public and private, of respect and gratitude.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 9 October 1838.

My Lord,

I have the honour to enclose your Lordship copies of an address from the inhabitants of the city of Toronto, and of my answer.

I have, &c.

(signed) *Durham.*

(Enclosures.)

To his Excellency the Right Honourable John George Earl of Durham, Viscount Lambton, &c. &c. &c.

May it please your Excellency,

WE, Her Majesty's dutiful and loyal subjects, inhabitants of the city of Toronto, respectfully approach your Excellency with renewed assurances of devotion and attachment to Her Majesty's Royal Person and Government.

We retain a lively and gratifying remembrance of your Excellency's visit to Toronto, on the 18th day of July last; of the reception given to your Excellency by the inhabitants of this city and vicinity, and of your Excellency's courteous and satisfactory reply to the congratulatory address then presented to you; and we now beg to reiterate our expressions of confidence in your Excellency's administration contained in that address, and of satisfaction at your appointment as Governor of British North America. At this important crisis, any public circumstance tending to destroy confidence in the sta-

bility and power of the Government, cannot fail to be productive of the most disastrous results; encouraging faction, and paralysing the industry and enterprize of the country. And impressed with this feeling, we would regard any occurrence, which might have the effect of inducing your Excellency to retire from the government of British North America, as a great public calamity.

The peculiar and unprecedented difficulties in which the affairs of British North America were involved when your Excellency assumed the Government, ought to have secured for the acts of your administration the most liberal construction, and should have obtained for them the cordial and unwavering support of all those who are interested in the peace and prosperity of these colonies, and the integrity of the British Empire; and we, therefore, have learned with great concern, as well as with just grounds of apprehension, the position which certain Noble Lords in the British House of Peers have thought it necessary to assume in reference to your Excellency's administration.

Deeply and immediately interested in those measures which it is the object of your Excellency to mature, we find ourselves imperatively called upon at this juncture to express publicly our confidence in your Excellency, and again to tender to you the assurances of an active and cordial support in whatever measures you may devise or adopt, having for their object the benefit of all classes of the community; and we trust your Excellency, undeterred by opposition or misrepresentation on the part of those who are unacquainted with the true interests of the country, will proceed to the accomplishment of those great objects of your mission, — the tranquillization of British North America, and the advancement of her general prosperity.

Answer.

I beg you will assure the inhabitants of Toronto how sensible I am of their kindness, and of their promptitude in coming forward with declarations of approbation and confidence in me at a moment like the present.

I well remember the enthusiastic reception which they gave me when I visited Toronto, in which, happily for me, all classes unanimously concurred.

It is an honest sense of pride to me, to reflect that their feelings have also been shared and exhibited by every one of the North American provinces; and I shall leave this conti-

nent with the consolatory reflection, that amidst the conflict of parties, and the collision of interests, a common sentiment has done justice to the rectitude of my intentions and the purity of my motives. I shall preserve the numerous testimonies of regard and confidence which have been presented to me from all quarters as documents of which I and my family must be justly proud, evincing, as they do, the unsolicited, unbought, but invaluable proofs of the attachment of so large a portion of my fellow countrymen.

For the reasons which have induced me to return to England, I must refer you to my Proclamation of this day's date, in which they are fully set forth, and the state and condition of the Canadas amply adverted to. You will, I hope, after giving it due consideration, agree with me in the opinion, that I can now be of more service to the North American colonies in Westminster than in Quebec.

It is, at the same time, a great consolation to me to reflect, that, notwithstanding my having been so abruptly arrested by the proceedings in the House of Lords in the arduous task of restoring peace, and providing for your future prosperity, I have yet done much to justify your confidence and gain your approbation. What was the state of the Canadas when I assumed the Government? Rebellion had been but recently quelled; martial law had been proclaimed, and the habeas corpus suspended; the gaols were filled with prisoners; and distrust and apprehension pervaded the minds of all classes; along the whole line of frontier from Lake Champlain to Lake St. Clair, the most active hostility against the British government prevailed, in which Canadian refugees and American borderers equally participated; the communication between the two countries was in a great measure interrupted, and at various points armed incursions took place; life and property were recklessly destroyed, and the chances of preserving peace between Great Britain and the United States daily diminishing.

In three months, what was the change? Martial law superseded; the habeas corpus restored; not a political prisoner remained in confinement in the Lower Province; nor was there any symptom of the existence of any seditious or treasonable movements, until the arrival of the intelligence of the interference of the House of Lords. The state of feeling in the United States, with reference to the Canadian question, had righted itself; the soundest tone pervaded the expression of public opinion, and I had received from all parts of the States assurances of confidence in my administration, and in my desire, as well as my ability, to preserve those amicable

relations between the two countries which they, as well as myself, considered necessary for the welfare of both.

Whilst I was thus employed, I had also to correspond with the Lieutenant-governors of the different provinces on matters of the highest moment, and am happy to have this public opportunity of acknowledging the cordial and enlightened co-operation which I received from them all. I received and consulted with delegates from each province, and was busily engaged in applying the valuable information I had derived from them to the formation of a plan, founded on large and comprehensive principles, for their general government. I had issued commissions, and received reports on the subject of the Crown lands and of emigration, of municipal institutions, and of general education. I was also preparing measures, to which I have adverted in my Proclamation, for the amelioration of the defective institutions of Lower Canada.

These, then, have been my acts, this my course of policy, during the limited period of my stay on this continent. The enumeration of them will, at all events, prove my diligence and my anxiety to devote my time to the promotion of the great objects of my mission.

I now bid you farewell, and pray you to believe that, from my heart, I wish you the constant enjoyment of that happiness, peace, and prosperity to which you are so justly entitled by your industry, intelligence, and loyalty.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 9 October 1838.

My Lord,

I have the honour to enclose your Lordship copies of an address from the clergy, magistrates, and other inhabitants of the town of Kingston, Upper Canada, and of my answer.

I have, &c.

(signed) *Durham.*

(Enclosures.)

To his Excellency the Right Honourable John George, Earl of Durham, Viscount Lambton, &c. &c. &c.

May it please your Excellency,

We, Her Majesty's dutiful and loyal subjects, the clergy, magistrates, and other inhabitants of the town of Kingston,

in Upper Canada, most respectfully approach your Excellency with the expression of our most unfeigned regret at your Lordship's intention of resigning the government of British North America, to which you had been called by the express command of Her most Gracious Majesty.

We cannot but regard your Excellency's departure, at this eventful crisis, as productive of disastrous consequences to our prosperity, and the more so as it destroys the hopes which we, in common with our loyal fellow colonists in this hemisphere, had cherished of your Excellency's administration; as we confidently anticipated that the policy which your Excellency intended to pursue, would be eminently calculated to heal all animosities, restore peace and confidence in our land, strengthen and perpetuate our connection with the parent State, consolidate and promote our commercial and agricultural interests, call into action our vast natural resources and advantages, and, by the introduction of the superabundant capital and redundant population of the mother country, render British America, *British*, in fact, as well as in name.

Without expressing any opinion as to the motives which may have actuated your Excellency's opponents, and Her Majesty's Ministers, we take pleasure in assuring your Excellency that the Ordinance which appears to have been the indirect cause of your Excellency's resignation, can never be regarded as the edict of oppression or tyranny, but must ever be viewed by the loyal inhabitants of these provinces as far too favourable to traitors in times of civil discord, and much more lenient than the criminals could have expected.

We beg to reiterate the confidence we entertain in your Excellency's intentions and talents, and we earnestly solicit your Excellency not to withdraw from the government of these provinces, until those measures (in the prospect and promise of which the people of these colonies have placed so much reliance) have been matured and perfected.

Answer.

I thank you most cordially for this gratifying proof of your confidence in me.

You have justly appreciated the principles of that policy which has governed every act of my administration, and which you will find fully, and I hope clearly, explained in my Proclamation of this day's date.

You have also correctly described the nature and object of the Ordinance which has been annulled. It was one of

mercy and forgiveness, not of tyranny and oppression. I cannot admit its illegality. It is strictly in accordance with the powers and provisions of the Act of Parliament under which I administer the affairs of this province. I may also remark that transportation to Bermuda has been the constant practice in both the Canadas. As for its policy, recent events have, I think, demonstrated its soundness. The late verdict on the trial of the murderers of Chartrand, shows how fearful is the danger of exposing the sacred institution of trial by jury to the chances of its being abused under circumstances in which the ordinary considerations of justice, truth, and conscience, are superseded by all the absorbing power of party feeling.

Knowing well that such would be the result, if the ordinary forms of judicial procedure were resorted to, I determined on acting on the powers conferred by the Act of Parliament, which I believed to have been passed by the Imperial Legislature, not from the abstract love of despotism, but from a conviction of the necessity which existed for supplying the Government here with means proportioned to the exigency of the case, and arming it with weapons sufficient to put down revolt and eradicate treason.

It has pleased the House of Lords to decree otherwise, and to declare by its enactments, on one day, that the free and representative constitution of a colony shall be suspended and a provincial despotism created,—and on the next, that the consequences of that Act are not to be followed out, or its powers enforced, even whilst they admit that it would be for the advantage of the public service.

I bow with submission to their decree, but I never will acknowledge its policy or equity.

When I had the happiness to meet you, in the course of my visit to the Upper Province, I fully explained to you my views as to the necessity of improving the water communications between the lakes and the Gulf of St. Lawrence. These I also communicated to Her Majesty's Government, and have the satisfaction of informing you that I have been authorized by them to institute a survey of the whole line from Lake Erie to Quebec. I have applied to the Ordnance Department for the aid of skilful engineers for this service, and have no doubt that their report will demonstrate the practicability and the necessity of rendering completely available those great natural means, through which the commerce of the Canadas may be incalculably extended, and their general interests advanced to the highest pitch of prosperity.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 9 October 1838.

My Lord,

I have the honour to transmit your Lordship copies of the official gazette of this day, in which I have, according to your Lordship's instructions, proclaimed the Act of 1 and 2 Victoria, c. 112, and notified Her Majesty's disallowance of the Ordinance 2 Victoria, c. 1.

I have, &c.

(signed) *Durham.*

(Enclosure.)

DURHAM.

By his Excellency the Right Honourable John George Earl of Durham, Viscount Lambton, &c. &c., Knight Grand Cross of the Most Honourable Military Order of the Bath, one of Her Majesty's Most Honourable Privy Council, and Governor-general, Vice-admiral, and Captain-general of all Her Majesty's Provinces within and adjacent to the Continent of North America, &c. &c. &c. &c.

A PROCLAMATION.

In conformity with one of its provisions, I have this day proclaimed the Act 1 and 2 Victoria, chap. 112, entitled "An Act for indemnifying those who have issued or acted under certain parts of a certain Ordinance, made under colour of an Act passed in the present Session of Parliament, intituled 'An Act to make temporary Provision for the Government of Lower Canada.'"

I have also to notify the disallowance by Her Majesty of the Ordinance 2d Victoria, chap. 1, entitled, "An Ordinance to provide for the Security of the Province of Lower Canada."

I cannot perform these official duties without at the same time informing you, the people of British America, of the course which the measures of the Imperial Government and Legislature make it incumbent on me to pursue. The mystery which has heretofore too often, during the progress of the most important affairs, concealed from the people of these colonies the intentions, the motives, and the very actions of their rulers, appears to me to have been one of the main causes of the numerous errors of the Government, and the general dissatis-

faction of the people. Undesirable at any time, such concealment on the part of one entrusted with the supreme authority in the present crisis of your affairs, would be most culpable and pernicious. With a people from whom I have had so many and such gratifying proofs of warm and confiding attachment, I can have no reserve. And my implicit reliance on your loyalty and good sense will justify me in making you acquainted with what it most imports you to know.

It is the more necessary for me thus to act, because, when I first entered upon this Government, I explained to you, in a Proclamation issued immediately on my arrival on these shores, the nature of the powers vested in me, and the principles on which it was my intention to exercise them. Now, therefore, that I am about to return to England, I feel it to be my bounden duty to state to you, as fully and as frankly, the reasons which have induced me to lay down powers rendered inadequate to the carrying into effect those or any other principles of government.

I did not accept the Government of British North America, without duly considering the nature of the task which I imposed on myself, or the sufficiency of my means for performing it. When Parliament concentrated all legislative and executive power in Lower Canada in the same hands, it established an authority, which, in the strictest sense of the word, was despotic. This authority Her Majesty was graciously pleased to delegate to me. I did not shrink from assuming the awful responsibility of power thus freed from constitutional restraints, in the hope, that by exercising it with justice, with mildness, and with vigour, I might secure the happiness of all classes of the people, and facilitate the speedy and permanent restoration of their liberties. But I never was weak enough to imagine that the forms by which men's rights are wisely guarded in that country where freedom has been longest enjoyed, best understood, and most prudently exercised, could be scrupulously observed in a society almost entirely disorganized by misrule and dissension. I conceived it to be one of the chief advantages of my position, that I was enabled to pursue the great ends of substantial justice and sound policy, free and unfettered. Nor did I ever dream of applying the theory or the practice of the British Constitution to a country whose constitution was suspended; where all representative government was annihilated, and the people deprived of all control over their own affairs; where the ordinary guarantees of personal rights had been in abeyance during a long subjection to Martial Law, and a continued suspension of the Habeas

Corpus; where there neither did exist, nor had for a long time existed, any confidence in the impartial administration of justice in any political case.

To encourage and stimulate me in my arduous task, I had great and worthy objects in view. My aim was to elevate the Province of Lower Canada to a thoroughly British character, to link its people to the sovereignty of Britain, by making them all participators in those high privileges, conducive at once to freedom and order, which have long been the glory of Englishmen. I hoped to confer on an united people, a more extensive enjoyment of free and responsible government, and to merge the petty jealousies of a small community, and the odious animosities of origin, in the higher feelings of a nobler and more comprehensive nationality.

To give effect to these purposes it was necessary that my powers of government should be as strong as they were extensive, that I should be known to have the means of acting as well as judging for myself, without a perpetual control by distant authorities. It were well indeed if such were the ordinary tenure of government in colonies, and that your local administration should always enjoy so much of the confidence of those with whom rests the ultimate decision of your affairs, that it might ever rely on being allowed to carry out its policy to completion, and on being supported in giving effect to its promises and its commands. But in the present posture of your affairs, it was necessary that the most unusual confidence should accompany the delegation of a most unusual authority; and that in addition to such great legal powers, the government here should possess all the moral force that could be derived from the assurance that its acts would be final, and its engagements religiously observed. It is not by stinted powers, or a dubious authority, that the present danger can be averted, or the foundation laid of a better order of things.

I had reason to believe that I was armed with all the power which I thought requisite by the commissions and instructions under the royal sign manual, with which I was charged as Governor General and High Commissioner, by the authority vested in me and my council by the Act of the Imperial Legislature, and by the general approbation of my appointment, which all parties were pleased to express. I also trusted that I should enjoy, throughout the course of my administration, all the strength which the cordial and stedfast support of the authorities at home can alone give to their distant officers; and that even party feeling would refrain

from molesting me whilst occupied in maintaining the integrity of the British Empire.

In these just expectations I have been painfully disappointed. From the very commencement of my task, the minutest details of my administration have been exposed to incessant criticism, in a spirit which has evinced an entire ignorance of the state of this country, and of the only mode in which the supremacy of the British Crown can here be upheld and exercised. Those who have in the British Legislature systematically depreciated my powers, and the ministers of the Crown by their tacit acquiescence therein, have produced the effect of making it too clear that my authority is inadequate for the emergency which called it into existence. At length an act of my Government, the first and most important which was brought under the notice of the authorities at home, has been annulled; and the entire policy, of which that act was a small though essential part, has thus been defeated.

The disposal of the political prisoners was from the first a matter foreign to my mission. With a view to the more easy attainment of the great objects contemplated, that question ought to have been settled before my arrival. But as it was essential to my plans for the future tranquillity and improvement of the colony, that I should commence by allaying actual irritation, I had in the first place to determine the fate of those who were under prosecution, and to provide for the present security of the province by removing the most dangerous disturbers of its peace. For these ends the ordinary tribunals, as a recent trial has clearly shown, afforded me no means. Judicial proceedings would only have agitated the public mind afresh; would have put in evidence the sympathy of a large portion of the people with rebellion; and would have given to the disaffected generally a fresh assurance of impunity for political guilt. An acquittal in the face of the clearest evidence, which I am justified in having anticipated as inevitable, would have set the immediate leaders of the insurrection at liberty, absolved from crime, and exalted in the eyes of their deluded countrymen, as the innocent victims of an unjust imprisonment, and a vindictive charge. I looked on these as mischiefs which I was bound to avert by the utmost exercise of the powers entrusted to me. I could not, without trial and conviction, take any measures of a purely penal character; but I thought myself justified in availing myself of an acknowledgment of guilt, and adopting measures of precaution against a small number of the most cul-

pable or most dangerous of the accused. To all the rest I extended a complete amnesty.

Whether a better mode of acting could have been devised for the emergency, is now immaterial. This is the one that has been adopted; the discussion which it at first excited had passed away; and those who were once most inclined to condemn its leniency, had acquiesced in or submitted to it. The good effects which must necessarily have resulted from any settlement of this difficult question, had already begun to show themselves. Of these the principal were, the general approval of my policy by the people of the United States, and the consequent cessation of American sympathy with any attempt to disturb the Canadas. This result has been most gratifying to me, inasmuch as it has gone far towards a complete restoration of that good-will between you and a great and kindred nation which I have taken every means in my power to cultivate, and which I earnestly entreat you to cherish, as essential to your peace and prosperity.

It is also very satisfactory to me to find that the rectitude of my policy has hardly been disputed at home, and that the disallowance of the Ordinance proceeds from no doubt of its substantial merits, but from the importance which has been attached to a supposed technical error in the assumption of a power, which, if I had it not, I ought to have had.

The particular defect in the ordinance which has been made the ground of its disallowance was occasioned, not by my mistaking the extent of my powers, but by my reliance on the readiness of Parliament to supply their insufficiency in case of need. For the purpose of relieving the prisoners from all apprehension of being treated as ordinary convicts, and the loyal inhabitants of the province from the dread of their immediate return, words were inserted in the Ordinance respecting the disposal of them in Bermuda, which were known to be inoperative. I was perfectly aware that my powers extended to landing the prisoners on the shores of Bermuda, but no further. I knew that they could not be forcibly detained in that island without the co-operation of the Imperial Legislature. That co-operation I had a right to expect, because the course I was pursuing was pointed out in numerous Acts of the Imperial and Provincial Legislatures, as I shall have occasion hereafter most fully to prove. I also did believe that, even if I had not the precedents of these Acts of Parliament, a Government and a Legislature anxious for the peace of this unhappy country, and for the integrity of the British empire, would not sacrifice to a petty technicality

the vast benefits which my entire policy promised, and had already in a great measure secured. I trusted they would take care that a great and beneficent purpose should not be frustrated by any error if error there was, which they could rectify, or the want of any power which they could supply; finally, that if they found the Ordinance inoperative, they would give it effect; if illegal, that they would make it law.

This small aid has not been extended to me, even for this great object; and the usefulness of my delegated power expires with the loss of that support from the supreme authority which could alone sustain it. The measure now annulled was but part of a large system of measures which I promised when I proclaimed the amnesty. When I sought to obliterate the traces of recent discord, I pledged myself to remove its causes—to prevent the revival of a contest between hostile races—to raise the defective institutions of Lower Canada to the level of British civilization and freedom; to remove all impediments to the course of British enterprize in this province, and promote colonization and improvement in the others, and to consolidate these general benefits on the strong and permanent basis of a free, responsible, and comprehensive Government.

Such large promises could not have been ventured, without a perfect reliance on the unhesitating aid of the supreme authorities. Of what avail are the purposes and promises of a delegated power, whose acts are not respected by the authority from which it proceeds? With what confidence can I invite co-operation, or impose forbearance, whilst I touch ancient laws and habits, as well as deep-rooted abuses, with the weakened hands that have ineffectually essayed but a little more than the ordinary vigour of the police of troubled times?

How am I to provide against the immediate effects of the disallowance of the Ordinance? That Ordinance was intimately connected with other measures which remain in unrestricted operation. It was coupled with Her Majesty's proclamation of amnesty; and as I judged it becoming, that the extraordinary Legislature of Lower Canada should take upon itself all measures of rigorous precaution, and leave to Her Majesty the congenial office of using Her Royal prerogative for the sole purpose of pardon and mercy, the proclamation contained an entire amnesty, qualified only by the exceptions specified in the Ordinance. The Ordinance has been disallowed, and the proclamation is confirmed. Her Majesty having been advised to refuse her assent to the exceptions, the amnesty exists without qualification. No impediment

therefore exists to the return of the persons who had made the most distinct admission of guilt, or who had been excluded by me from the Province on account of the danger to which its tranquillity would be exposed by their presence; and none can now be enacted, without the adoption of measures alike repugnant to my sense of justice and of policy. I cannot recal the irrevocable pledge of Her Majesty's mercy. I cannot attempt to evade the disallowance of the Ordinance, by re-enacting it under the disguise of an alteration of the scene of banishment, or of the penalties of unauthorized return. I cannot, by a needless suspension of the Habeas Corpus, put the personal liberty of every man at the mercy of the Government, and declare a whole province in immediate danger of rebellion, merely in order to exercise the influence of a vague terror over a few individuals.

In these conflicting and painful circumstances, it is far better that I should at once and distinctly announce my intention of desisting from the vain attempt to carry my policy and system of administration into effect with such inadequate and restricted means. If the peace of Lower Canada is to be again menaced, it is necessary that its government should be able to reckon on a more cordial and vigorous support at home than has been accorded to me. No good that may not be expected from any other government in Lower Canada, can be obtained by my continuing to wield extraordinary legal powers of which the moral force and consideration is gone.

You will easily believe that, after all the exertions which I have made, it is with feelings of deep disappointment that I find myself thus suddenly deprived of the power of conferring great benefit on that province to which I have referred; of reforming the administrative system there, and eradicating the manifold abuses which had been engendered by the negligence and corruption of former times, and so lamentably fostered by civil dissensions. I cannot but regret being obliged to renounce the still more glorious hope of employing unusual legislative powers in the endowment of that province with those free municipal institutions, which are the only sure basis of local improvement and representative liberty, of establishing a system of general education, of revising the defective laws which regulate real property and commerce, and of introducing a pure and competent administration of justice. Above all, I grieve to be thus forced to abandon the realization of such large and solid schemes of colonization and internal improvement, as would connect the distant portions of these extensive colonies, and lay open the unwrought

treasures of the wilderness to the wants of British industry and the energy of British enterprize.

For these objects I have laboured much, and have received the most active, zealous, and efficient co-operation from the able and enlightened persons who are associated with me in this great undertaking. Our exertions, however, will not, cannot be thrown away. The information which we have acquired, although not as yet fit for the purposes of immediate legislation, will contribute to the creation of juster views as to the resources, the wants, and the interests of these colonies, than ever yet prevailed in the mother country. To complete and render available those materials for future legislation, is an important part of the duties which, as High Commissioner, I have yet to discharge, and to which I shall devote the most anxious attention.

I shall also be prepared, at the proper period, to suggest the constitution of a form of government for Her Majesty's dominions on this continent, which may restore to the people of Lower Canada all the advantages of a representative system, unaccompanied by the evils that have hitherto proceeded from the unnatural conflicts of parties; which may safely supply any deficiencies existing in the governments of the other colonies; and which may produce throughout British America a state of contented allegiance, founded, as colonial allegiance ever must be, on a sense of obligation to the parent state.

I fervently hope that my usefulness to you will not cease with my official connection. When I shall have laid at Her Majesty's feet the various high and important commissions with which Her Royal favour invested me, I shall still be enabled as a Peer of Parliament to render you efficient and constant service in that place where the decisions that affect your welfare are in reality made. It must be, I humbly trust, for the advantage of these provinces, if I can carry into the Imperial Parliament a knowledge, derived from personal inspection and experience, of those interests upon which some persons there are too apt to legislate in ignorance or indifference, and can aid in laying the foundation of a system of general government, which, while it strengthens your permanent connection with Great Britain, shall save you from the evils to which you are now subjected by every change in the fluctuating policy of distant and successive administrations.

Given under my hand and seal at arms, at the Castle of St. Lewis, in the city of Quebec, in the said province of

Lower Canada, the 9th day of October, in the year of our Lord 1838, and in the second year of Her Majesty's reign.

(By command)

Charles Buller,
Chief Secretary.

Durham.

Province of Lower Canada.

By his Excellency the Right Honourable John George, Earl of Durham, Viscount Lambton, &c. &c. Knight Grand Cross of the Most honourable Military Order of the Bath, one of Her Majesty's Most honourable Privy Council, and Governor-General of all Her Majesty's Provinces within and adjacent to the Continent of North America, &c. &c. &c. &c.

To all to whom these Presents shall come, Greeting:—

Whereas by the 112th chapter of the statute of the Parliament of the United Kingdom of Great Britain and Ireland, intituled, "An Act for indemnifying those who have issued or acted under certain parts of a certain Ordinance made under colour of an Act passed in the present Session of Parliament, intituled, 'An Act to make temporary Provision for the Government of Lower Canada,'" passed in the first and second year of the reign of our Sovereign Lady the Queen Victoria, it is amongst other things enacted, that the said Act shall be proclaimed in the said Province of Lower Canada by the Governor, or by the person authorized to execute the commission of Governor of the said Province, forthwith after he shall have received a copy of the same from one of Her Majesty's Principal Secretaries of State: And whereas I, the said John George Earl of Durham, being the Governor of the said Province of Lower Canada, have received a copy of the said Act from one of Her Majesty's Principal Secretaries of State: Now, therefore, know ye, that I, the said John George Earl of Durham, being such Governor as aforesaid, by virtue of the power and authority reposed in me by Her Majesty, and of the said Act of the said Parliament, do, by this Proclamation, proclaim the said Act of the said Parliament of the United Kingdom of Great Britain and Ireland, intituled, "An Act for indemnifying those who have issued

or acted under certain parts of a certain Ordinance made under colour of an Act passed in the present Session of Parliament, intituled, 'An Act to make temporary Provision for the Government of Lower Canada,'" so that the said Act of the said Parliament shall and may commence and take effect within the said Province from the day of the date of these presents.

Given under my hand and seal at arms, at the Castle of St. Lewis, in the city of Quebec, in the said Province of Lower Canada, the 8th day of October, in the Year of our Lord 1838, and in the second year of Her Majesty's reign.

D. Daly, Secretary of the Province.

Extract of a DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 15th October 1838.

In my despatch of the 28th ult. which announced my intention of returning to England at an early period, for the purpose of resigning my commissions, I explained the grounds on which I had formed that decision after mature deliberation. I felt that the moral power of my government was so completely destroyed, and the difficulties of my position so greatly augmented by the proceedings of Her Majesty's Ministers and the Imperial Parliament, that the attempt to conduct the government of these provinces on better principles than those which have hitherto been adopted was one which must be made by other hands than mine. I grieve to find that I did not by any means exaggerate the probable effect which would be produced on the public mind on this continent by the occurrences in England. In the course of one week I have found the tone of the British inhabitants changed from the loudest professions of loyalty and attachment to the connection with the mother country, to a calm anticipation and discussion of the chances and consequences of separation. From the same mouths that a short while ago expressed the most passionate resentment of wrongs supposed to have been received from the people of the United States, I hear significant approval of the course which I have all along taken to conciliate the good-will of a kindred people, whose sympathies with the English race it is judged politic to cultivate. I have been startled at the rapid growth of this dangerous state of mind; and when the mass of the British population of this city were assembled to present me with an address expressive of the

kindest feeling towards myself, and the strongest condemnation of the policy which severs the official connection between us, I shrunk from any other than a formal and deliberate expression of my feelings, from fear lest an indiscreet word or gesture on my part, or any one of those unforeseen accidents which carry large popular assemblies beyond the influence of human control, might lead to a general expression of the angry feeling that pervaded the excited numbers whom I beheld before me.

A perfectly different feeling exhibited itself at first among the French Canadians. They naturally exulted in the victory which appeared to have been gained by those who put themselves forward as their especial advocates in the mother country, and the disaffected rejoiced at perceiving that the arm of authority was weakened. Since the receipt of the first news from home which might lead them to believe, on high authority, that I did not really possess the powers with which they once imagined me to be invested, I can have no doubt that the disposition to secret machinations and preparations for insurrection, which had been for some time checked, has sprung into renewed activity; and though I do not feel much dread at the prospect of any unsupported attempts which the French population may make against the military force now in this country, I cannot doubt that there is now in existence an organization of the disaffected in this province, which may lend a most pernicious aid to any attack which may be made from without.

I have already forwarded to your Lordship an address expressive of the feelings of the delegates from the lower provinces of British North America; and the accounts which I have recently had show that the same feelings have been generally expressed in those provinces in the calm manner in which their happy immunity from actual civil war enables their inhabitants still to express their political sentiments; but throughout Upper Canada, where the memory of recent suffering is fresh and vivid, and where the terror of near and visible peril constantly alarms the public mind, a more passionate and general feeling of regret and alarm has pervaded all classes. Unaccustomed to the state of feeling generated by actual insurrection, I have been struck by the extent of that terror with which all parties and all classes see, in the disturbance of my policy, the harbinger of a winter similar in its political character to the last. The sudden unanimity of all parties in that most divided province has been as alarming as extraordinary; for when those in power, and those who in attempting to snatch it from them advanced to the brink of

rebellion, signed the same address—when the leaders of the reformers seconded the resolutions moved by the heads of the family compact—I could not but infer that an unanimity so strange must have been produced by the indication of sure and awful peril.

Of what nature that danger is, the enclosed communications from Her Majesty's Minister at Washington will inform your Lordship. I grieve to say that all the information which I have received within these few days, from all quarters, confirms the alarming intelligence conveyed therein. I have no doubt that the numbers, means, and projects of the conspirators are greatly exaggerated, but I have little doubt also, that there is great reason to apprehend that there has been suddenly formed throughout the bordering states, among a population capable of such enterprises, a widely ramified conspiracy, bent on repeating in Canada the scenes of Texas, invading the British dominions with a horde of those lawless and daring adventurers, who are to be tempted by the promise of sharing in the plunder of private and public property in these ample and fertile provinces.

It is of great importance that your Lordship and your colleagues should know the present state of feeling, both in these provinces and in the neighbouring states, and that you should know it betimes. I take, therefore, the opportunity which is afforded me by the postponement of the Royal William's departure, to supply you, though in a hurried manner, with the information which has reached me.

The mind of the British population throughout all the provinces has been deeply agitated by the prospect of a new change in the system of government. I am happy to be able to adduce the great number and the kind language of the addresses which I have received from all parts of the two Canadas, as proofs of the favourable feelings with which my policy has been regarded. Your Lordship must not imagine that I attach undue importance to documents so flattering to myself; for I feel that these are expressions of a deeper and more serious feeling than any that regards my individual conduct or treatment. The expressions of regret at my resignation, and of condemnation of the disallowance of my ordinance, proceed from those who disapproved of that part of my policy, just as much as from those who had most warmly supported it. The measures which I had adopted with a view to the disposal of the political prisoners had been a long time in operation; and however freely they had been canvassed—however much a certain portion of the population had thought it right to censure them—that discussion had run its course,

and all had acquiesced in a policy which they judged to be definitively adopted. The disturbance of this settled policy by the acts of the home Government has been regretted and condemned, not more by those who most cordially approved of the particular course adopted by me, than by those who originally wished that I had acted with greater severity. Both equally condemn the precipitate interference, which has obviously been undertaken in utter ignorance of the state of these provinces. They see with dismay that the difficulties which my policy had succeeded in removing are again placed in the way of the Government; that the authority from which they expected at least vigour and steadiness, is powerless to enforce its determinations and to maintain the course on which it has entered ; and that these unhappy provinces are, during the trying emergencies which are generally anticipated, to be still subjected to the mischievous influence of that wavering and temporizing policy which has hitherto paralysed the efforts of their energetic and loyal inhabitants.

Your Lordship will not be surprised to learn that regret is not the only feeling that has in consequence pervaded the British portion of the population, and that they have not beheld without anger their dearest interests thus made, as they express it, the sport of parties at home, who do not participate in either the danger or the desire to avert it. I have warned your Lordship, that the patience and the loyalty of our countrymen in these provinces may be tried overmuch ; I have not been surprised, therefore, that their despair at the failure of that support which they had justly expected from home, has led them to think on what they can do for themselves ; but I do assure your Lordship that I was not prepared for the extent of the change which I cannot doubt that these events have produced in the public mind here.

I am compelled abruptly to close this despatch, of the means of forwarding which, I received a very short notice.

* * * * * * * *

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 20 October 1838.

My Lord,

I have repeatedly called your attention to the injurious effects produced on the authority of Government in this province, not only by the acts of the Legislature and of Her Majesty's Ministers, but also by the discussions in Parliament. Your Lordship, and those who, from their intimate acquaintance with the motives and conduct of public men at home, are

accustomed to attach little weight to expressions of individual opinions, may think that I overstate the effect produced here by what is said in the two Houses of Parliament. It may also be difficult for those who draw their ideas of this colony from a superficial view of what they see in England, to conceive the extent in which the authority of Government is weakened, in every respect, by the want of support which I have hitherto experienced. I am therefore anxious to bring under your Lordship's consideration the proceedings in a recent case in the Court of Queen's Bench at Quebec.

In the case "*Ex parte* Firmin Moreau," application was made for a writ of habeas corpus, for the purpose of discharging from gaol a person committed by the superintendent of police, under the police ordinance passed by the Special Council at the same time as the disallowed ordinance for the better security of the province. Mr. Justice Bédard dissented from his brother judges, and held the committal invalid, on the ground that, in his opinion, the Imperial Act, 17 Geo. II, c. 5, relating to vagrants, formed part of the laws of this province, and that the police ordinance, being in contravention of its provisions, is null under those of the Imperial Act, 1 Vict., restricting the legislative power of the Governor-general and Special Council to enactments not at variance with any Imperial Act.

Mr. Bédard was fortunately overruled by the other judges, and no mischief resulted in the particular case before the court; but that mischief has been done, which must result from the public declaration of the illegality of the acts of the only legislative authority in the country, on the part of one of the judges of the highest court; whilst still greater mischief must result from this opinion being grounded on a view which restricts the legislative authority of the province within limits so absurdly narrow; and the greatest evil of all is, that however preposterous may be the opinion, or however small the weight, attaching in the public mind to the authority of the particular judge, who on this occasion dissented from his brethren, his opinion is unfortunately backed by those of many of the speakers in both Houses of Parliament, in the late debates on the ordinance.

Mr. Bédard only takes, after all, the ground on which a great many objections to the disallowed ordinance were made by speakers whose position gave their expressions no small authority. It was stated, that as the provisions of the criminal law of England were extended to this province by the Quebec Act, the Governor-general and special council could have no power of altering any part of that law. It was urged,

that as the procedure in cases of treason is regulated by British Acts, I could not punish persons accused of treason by any mode except that prescribed by English statutes. This is the interpretation placed by some English lawyers on the operation of the provision whereby the Governor and council are restricted from repealing Imperial Acts. Mr. Bédard follows out this view to its legitimate and absurd consequences when he gravely asserts, that the authority of the only legislature of this province is restricted by the most insignificant provisions of the criminal law or imperial statutes. According to this view, a constitution is suspended, and the semblance of despotism established, for the purpose of arming the government of Lower Canada with an authority which is fettered by the Vagrant Act.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 20 October 1838.

My Lord,

Since my despatch which I forwarded to your Lordship on the 16th inst., I have seen Sir John Colborne, and had the advantage of a good deal of communication with him on the present state of affairs. His information respecting the probability of serious disturbances during the ensuing winter, I am sorry to say, tallies very exactly with that which I have received from all quarters; and his opinion of the gloomy aspect of affairs is just as strong as that which I have lately endeavoured to impress on your Lordship. I am happy to say that the most perfect understanding continues to prevail between us. Looking on him as the person with whom the whole conduct and responsibility of the Government during the next six months will in all probability rest, I have thought it best for the public service that he should enter as speedily as possible on that course, by which he purposes to maintain the tranquillity and the possession of these provinces. I have requested him at once to take whatever military precautions he may deem necessary for enabling him to carry out his own views for the security of the provinces, against foreign invasion, or internal disaffection. He has readily availed himself of this offer, and is busily engaged in taking steps for calling out the volunteers and guarding the frontiers. The indications of mischief are so numerous and so urgent, that it is no longer

possible to conceal, or advisable to attempt concealing the consciousness of danger entertained by the Government: its only course is openly and resolutely to proclaim and avert that danger. The early adoption of these measures of military precaution must of necessity entail great expense on the Government. It will too clearly demonstrate to the province and to neighbouring states the melancholy condition of its internal and external relations; and it will in all probability produce a state of things in which the present exasperation of parties will be aggravated by fresh causes of irritation; but these are evils which must be borne, if we mean to provide, as far as is in our power, for the retention of the two Canadas. While, therefore, I cannot but lament the necessity of them, I must approve the adoption, under existing circumstances, of these measures by the Commander of the Forces.

The result of my communication with Sir John Colborne, as well as of fresh intelligence which I have received, has been a confirmation of the propriety of my relinquishing the government of these provinces. It is quite clear that, at the present season, it is useless for the Government to occupy itself with any schemes of extensive and permanent amelioration. The sole object of its care must, for the present, be the retention of the province during the winter. As this must be attained by military means, the business of my pacific mission is, if not at an end, in abeyance; and it is best that, for a while, the civil and military authority of this province should be in the same hands. A civil governor here would, during the next six months, have no legitimate business, save that of rendering that subordinate aid to the military authorities which will be better secured if the entire direction and responsibility be allowed to rest with the Commander of the Forces; and this is also Sir John Colborne's view of the case. My only sphere of utility to these colonies must, I am more than ever convinced, be henceforth in the Imperial Parliament, where, if I can force on the knowledge of my countrymen the true state of these provinces, and the true policy to be adopted for their future good government, I may contribute towards rendering available the last opportunity which I believe will ever be afforded to Great Britain of maintaining an useful and honourable connection with her possessions on the North American Continent.

With this object in view, I think it my duty to return without any delay. I have, therefore, with great regret, on public as well as private grounds, abandoned my intention of visiting the United States, where I hoped that my communi-

cations with the President might be of service. I now intend to sail from this port in Her Majesty's ship Inconstant, direct to England, on the 3d of November.

The nature and extent of the danger with which Sir John Colborne will probably have to contend, I endeavoured to point out to your Lordship in my despatch, which I prepared at a few hours' notice, availing myself of the postponed departure of the Royal William. Time and deliberation have not enabled me to supply your Lordship with more precise information on the points on which I then touched, for the fresh intelligence which every day brings is of the same vague nature, and confirms our belief in the existence of unknown perils, without informing us as to the time, the mode, and the extent to which we are to be exposed to them.

There is great danger to be apprehended from the rapidly increasing familiarity with which the idea of separation from the British empire is expressed and canvassed by the British in these provinces. I do not mean to disparage their severely tried and well proved loyalty to the Crown and attachment to the British empire. Their preference of monarchical institutions, their affection for the mother country, are as strong as ever; but their hope of maintaining either has been suddenly and materially weakened; and in this state of feeling they naturally look with great anxiety to the form of government under which it is possible they may soon have to live, and to the connections which they may be under the necessity of forming when the ties of their present dependence are severed. The chances and the desirableness of the different possible results are daily canvassed among them; their minds become familiarized with the thoughts, which a short time ago they held it a crime to entertain; and however favourable the decision of their judgment may be, the strong feeling which bound them to the British empire is weakened by the mere fact of its soundness becoming a matter of question.

To what extent this feeling prevails, or how soon and in what form it may exhibit itself, it is impossible to say. It is one of no recent growth. Do not imagine, my Lord, that it owes its origin to my recall, or that it could be obviated by my retention of the government. Long lurking in the minds of even those inhabitants of these provinces in whom it had not been openly manifested in the course of the late discontents and disturbances, it was in great measure removed by the apparent indications of a better policy, which were hailed in the appointment of a Governor armed with the extensive and sufficient powers which I was supposed to wield when I landed on these shores. This feeling has sprung into sudden

and rapid growth from the hour in which the public mind was disabused as to the extent of my previously exaggerated powers by the weightiest authority in the British legislature, which deprived me of moral influence, by asserting, without contradiction, that I "possessed only the ordinary legal powers of a common Governor." From the same moment, and from the same cause, sprang the other feelings of which the wide diffusion among perfectly different classes menaces even greater danger.

The same cause called into renewed and vigorous action the hopes of the disaffected in both provinces. Of the designs of the disaffected within the Upper Province we know nothing. In this, the indications of conspiracy and dangerous designs are numerous and undeniable. A formidable organization, bound together by secret oaths and secret signs, undoubtedly exists, and extends over the French population, at least of the district of Montreal. The object of the oath does not appear to be specific; it merely binds the conspirators to be ready to obey whatever orders they may at any time receive from their chiefs. When this machinery is to be called into action does not appear. I am, on the whole, inclined to be of opinion, that there is no intention of immediate outbreak in this province, unless in case of invasion from without; to that it is at all times ready to serve as a formidable auxiliary; but in the mean time it produces all the alarm which actual insurrection would occasion. Terrified by signs of this formidable and mysterious organization, and sometimes by secret menaces or warnings of murder and massacre, the loyal inhabitants of the country quit their exposed and isolated habitations, and either at first seek refuge in the towns, or at once secure their safety by quitting the British dominions. In both provinces alike, this emigration, from utter insecurity of person and property, has taken place to an alarming extent; and both provinces have thus been, to a great extent, deprived of the most valuable class of their inhabitants, of those whose peaceful energies contribute most to their improvement, and who most demand and deserve the steady protection of a parental government.

The same cause has given life to the worst spirit among the bordering population of the United States, and extended, if not created, that formidable secret combination, of which the existence has been announced to me, not only by a host of concurrent and consistent private communications, but by the most solemn warning which the government of the United States could give. I do not believe that this conspiracy is the result of that somewhat generous, but utterly misdirected, sympathy which

last winter prompted our republican neighbours to interfere in behalf of a people whom they erroneously imagined to be making a hearty struggle for liberty. It seems rather to result from the aspect of the weakness of the Government in these provinces, which has latterly been presented to the bordering population, and which offers to the ambition or avarice of the bold and lawless settlers of the American wilderness the ample and fertile lands which appear to invite occupation by the strongest. They think to repeat the conquest of Texas from a nobler foe, with proportionably greater means of aggression; and if they know that they will have to contend with something more than a Mexican army, they count on an internal aid, which was not found in the solitary wilds of Texas.

That this is the nature of their views and plans I infer, not merely from the direct information which I have received, but from the fact that the first indications of these machinations were observed just at the period in which the first debates in the House of Lords convinced the ill-intentioned here, that they need not apprehend a vigorous and well-supported government in Canada.

Such are the internal and external prospects of a country, respecting which, in my despatch of the 9th of August, I thus expressed myself:—"The exercise of the very extensive powers placed in my hands seems to have operated as a sort of charm, like oil poured on troubled waters. At this moment all is still; a stranger would hardly believe that the country had been recently distracted by civil war. Expectation for the future is, I trust, taking the place of angry passions occasioned by the past."

This was, at that time, a true description; I stated nothing but what correctly described the state of things in these provinces. I could not know that at that very hour events were passing at the other side of the Atlantic which would call into renewed and fearful activity the smothered embers of universal strife, and reverse the fair order of things which I had so diligently laboured to establish.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 20 October 1838.

My Lord,

Although the subject to which I am about to call your Lordship's attention will be much more fully noticed in my general report as Her Majesty's High Commissioner, yet I am induced to bring it now before Her Majesty's Government, because whatever measures may ultimately be adopted with respect to it, some immediate reform is absolutely necessary to prevent the recurrence of great evils, and it appears to me that such a reform may take place by a mere improvement in the administration of existing laws.

I allude to the superintendence of the emigration from Great Britain and Ireland to the two Canadas by way of the river St. Lawrence.

Upon this subject many respectable and intelligent gentlemen have been examined by the Commission of Crown Lands and emigration. Their evidence proves, I think, that if it be an object of importance to promote emigration to these colonies, a new law and a very different kind of administration from any that has yet taken place are absolutely necessary. I shall hereafter dwell at length on these points; at present I only wish to point out to your Lordship how thoroughly the existing law has been neglected down to the present time.

With this view I have the honour to enclose a copy of the minutes of the evidence of Dr. Poole, inspecting physician at the quarantine station at Grosse Isle. From the testimony of this gentleman, supported by the concurrent opinion of several gentlemen of high character and great experience, it appears that the emigrant agents appointed at the ports of embarkation in England, exercise no effectual supervision over the arrangements for the passage of emigrants, and that all the old evils of filth, inadequate accommodation, inferior and insufficient food, a scanty supply of unwholesome water, and the employment of vessels which are not sea-worthy, adding the risk of shipwreck to the certainty of disease, which the appointment of these agents and the alteration of the Passengers' Act were intended to remedy, and, as would seem, are imagined by the general agent of emigrants to have remedied, exist in full force even up to the present moment, except in so far as they may have been checked by a recent alteration of the law in this colony, by which, as ships free from disease are permitted to proceed at once to Quebec, it

is made the interest of masters and owners of vessels to pay some attention to the cleanliness and health of their passengers.

To provide an effectual remedy for those evils, some alteration in the present Passengers' Act appears to be requisite; but without waiting until this can be done, it is in the power of Her Majesty's Government to remove the worst of them, by placing the establishment of emigrant agents upon a really efficient footing, and subjecting them to an effectual control. The sufferings to which, under the existing regulations, the ignorant and unprotected emigrants are still exposed, are of a nature to call loudly for this remedy, which it is in the power of Her Majesty's Government immediately to supply.

I have, &c.

(signed) *Durham.*

(Enclosure.)

Charles Poole, Esq. M.D.

Quebec, 4 August 1838.

You are inspecting physician at the quarantine station of Grosse Isle?—Yes; and have been attached to that station for the last six years.

What are your duties as respect emigration?—First, the inspection of all vessels arriving in the river St. Lawrence, and the examination of all passengers for the detection of disease. Secondly, Taking measures for disinfecting vessels, and sending to the hospital all persons labouring under, or threatened with any disease considered contagious.

Do you attend upon the patients in hospitals?—Not at present; but I did so in the years 1833 and 1834, when I was medical superintendent of the hospital.

Can you give any statement of the number of emigrants who arrived during those years, and how they were disposed of?—I have prepared such a statement, and beg leave to put it in.

GROSSE ISLE.—Table of the Number of Emigrants arrived, admitted to Hospital, discharged, and died, during the last six years, up to this date, 7th September 1838; also, Number of Deaths during the passage, 1836, 1837, 1838.

	Admissions.	Discharges.	Deaths.	No. of Emigrants Arrived.	Deaths on the Passage.	REMARKS.
1833	239	212	27	22,062	...	Typhus fever generated on ship-board has been so highly contagious among the emigrants landed here, that four medical officers have been attacked, of whom one died, and 23 hospital servants, of whom five died in the last five years at this station.
1834*	844	580	264	30,960	...	
1835	126	116	10	11,580	...	
1836	454	396	58	28,956	205	
1837	597	540	57	22,225	237	
1838 To 7 Sept.	48	39	5	4,992	13	
TOTAL -	2,308	1,883	421	120,775	455	

* Cholera year.

(signed) *Charles Poole*, M.D.
7 Sept. 1838. Inspecting Physician.

You have read the evidence given before this commission by Mr. Buchanan, Dr. Morrin, Dr. Skey, and Mr. Jessopp?—I have; and I concur generally in the view of the subject taken by Mr. Jessopp, Dr. Morrin, and Dr. Skey; but as all emigrants, without exception, necessarily come under my inspection after the voyage, I may perhaps be able to add some information to that which has been furnished by them.

Your personal experience relates to the period during which the Emigrant Tax has been levied, and the Amended Passengers' Act of the Imperial Parliament has been in operation?—It does; speaking of the operation of present arrangements, we had last year upwards of 22,000 emigrants. The poorer class of Irish and the English paupers sent by parishes, were, on the arrival of the vessels, in many instances entirely without provisions; so much so, that it was necessary to supply them immediately with food from shore, and some of these ships had already received food and water from other vessels with which they had fallen in; other vessels with the

same class of emigrants were not entirely destitute, but had suffered much privation from having been placed on short allowance. This destitution or shortness of provisions, combined with dirt and bad ventilation, had invariably induced fevers of a contagious character, and occasioned some deaths on the passage; and from such vessels numbers, varying from 20 to 90 each vessel, have been admitted to hospital with contagious fever immediately on their arrival. I attribute the whole evil to defective arrangements. For example, parish emigrants from England receive rations of biscuit and beef or pork, often of bad quality (of this I am aware from personal inspection). They are incapable, from sea-sickness, of using this solid food at the beginning of the passage; when for want of small stores, such as tea, sugar, coffee, oatmeal, flour, they fall into a state of debility and low spirits; by which they are incapacitated from the exertions required for cleanliness and exercise, and also indisposed to solid food; more particularly the women and children; and, on their arrival here, I find many cases of typhus fever among them. Very few of these vessels have on board a sufficient quantity of water; the casks being insufficient in number, and very many of them old oak casks made up with pine heads, which therefore leak, if they do not fall to pieces, which often happens.

Does this take place from ports where there is an agent for emigrants?—I have had many similar cases from Liverpool, and would mention two, of the "Ceres" and "Kingston," which arrived at Grosse Isle on the same day from Liverpool, in July 1836, of which the circumstances were so bad as to induce me to report them to the civil secretary, by whom I was informed that the report was forwarded to Her Majesty's Principal Secretary of State for the Colonial Department. These two ships left Liverpool about the same time; the one having 436 passengers, the other upwards of 340. The captains respectively, by name ————————, and ————————, called the attention of the agent for emigrants at Liverpool to the water-casks prepared for the use of the emigrants, pointing out that they were what is called "leaguers;" that is, very large casks made up of smaller old casks, and with pine heads, requesting that they might be filled before embarkation to prove their quality. This was refused by the agent, and the casks were taken on board without proof. The loss of water by leakage in the "Ceres" was computed during the first three days at 800 gallons, and the "Kingston" nearly as much. On the arrival of these ships at Grosse Isle, although the emigrants had been on

short allowance of water, the "Ceres" had enough for no more than half a day, and the "Kingston" was quite without water. The passengers in both ships had suffered very much from want of water. The temporary berths also on board both of these ships were so badly constructed, that they came to pieces with the first heavy sea, causing the deaths of two children, and severely injuring many others. The medicine chests on board these vessels, as is too frequently the case, were not more than 18 inches square, or sufficient for more than 25 passengers. Of castor oil, one had only three pints, and of Epsom salts, not above 3 lbs. Had these vessels been properly inspected, nothing of the kind could have occurred.

But these were peculiar cases and perhaps unique?—On the contrary, I but too frequently meet with similar cases, more or less aggravated. I also wish to mention, as loudly calling for remedy, a system of extortion carried on by masters of vessels, chiefly from Ireland, whence come the bulk of our emigrants. The Captain tells emigrants the passage will be made in three weeks or a month, and that they need not lay in provisions for any longer period, well knowing that the average passage is six weeks, and often extends to eight or nine. When emigrants' stores are exhausted, the captain, who has laid in a stock for the purpose, obliges them to pay often as much as 400 per cent. on the cost price for the means of subsistence, and thus robs the poor emigrant of his last shilling; such cases are of frequent occurrence, even down to last year.

When complaints as to the state of Canada emigrant ships have been made in England, the answer has been commonly an admission of great defects formerly, with a statement that at present the arrangements are very different and no longer objectionable; does your description apply to the past or the present?—Down to last year. This year there have been so few emigrants that there has been little to observe upon, though even this year, in some cases, provisions and water have been deficient in quantity, and some vessels have arrived with small-pox, the origin of which was traced to individuals who embarked with the disease upon them. A proper medical inspection would have prevented this evil. The medical superintendence on board vessels obliged by the Passengers' Act to carry a surgeon, is also very defective. The majority of such persons called surgeons are unlicensed students and apprentices or apothecaries' shopmen, without sufficient medical knowledge to be of any service to the emigrants, either for the prevention or cure of disease. On board ship a knowledge of the means of preventing disease in such a situation

is the first requisite in a medical man, and in this the medical superintendents are lamentably deficient. It is not much better as to the cure of diseases. I boarded a ship last year, of which the captain and three passengers who had met with accidents, had their limbs bandaged for supposed fractures, which upon examination I found were only simple strains or bruises. On examining the captain's arm, I said that there had been no fracture ; the surgeon so called replied, " I assure you the *tibia* and *fibula* were both broken." It happens that the *tibia* and *fibula* are bones of the leg. This is an extreme case apparently, but is not an unfair illustration of the ignorance and presumption of the class of persons appointed to comply with that part of the Act which is intended to provide for the medical care of emigrants during the passage.

Have you any other remark on existing arrangements ?—I wish to say that the reports made to me by the class of captains and surgeon-superintendants now are seldom to be relied upon ; in illustration, I beg leave to mention a case that occurred last year ; it was a vessel with about 150 passengers on board from an Irish port. The captain and surgeon assured me that they had no case of sickness on board, and the surgeon produced a list which he had signed of certain slight ailments, such as bowel complaints and catarrhs, which had occurred during the passage, and which appeared on the list with the remark " cured" to all of them. On making my usual personal inspection of each emigrant, I found and sent to hospital upwards of 40 cases of typhus fever, of which nine were below in bed ; these nine had not been able to get out of bed. Many of the others were placed against the bulwarks, to make a show of being in health, with pieces of bread and hot potatoes in their hands.

What is the captain's interest in such deception ?—To prevent detention of the ship in quarantine.

And the surgeon's ?—One can hardly say ; but they are probably influenced by the captain. Nevertheless, as there are many most respectable captains in the lumber trade, a proper selection of vessels by the emigrant agents at home, would prevent this abuse.

Is that all ?—No ; that part of the law which regulates the height between decks of emigrant ships is frequently evaded in the smaller class of vessels, by means of a false deck some distance below the beams, bringing the passengers nearly in contact with the clamp ballast, and pressing them into the narrow part of the ship, and the beams taking an important part of the room allotted to them by law.

Is it possible that such fittings should escape observation in

the port of departure ?—Quite impossible, if that part of the vessel intended for emigrants be visited.

Are such cases common ?—In many of the smaller class of vessels from Ireland, Yarmouth, Lynn, Ipswich, &c., bringing parish emigrants.

Is there any peculiar superintendance on board for parish emigrants ?—Not that I am aware of : and I should say that there is none, because they are generally at the mercy of the captain and mate, who serve out the provisions, and who frequently put the emigrants on short allowance soon after their departure. Complaints of short weight and quantity in the provisions are frequently made.

Have you brought these facts to the knowledge of Government ?—These or similar circumstances have been mentioned by me in my annual reports for the years 1833, 1834, 1835, and 1836.

Was there any perceptible improvement in 1837 ?—But little in the arrangements at home ; but the alterations of the quarantine regulations here, giving me a discretionary power to permit emigrants arriving clean and healthy to proceed to Quebec without detention on landing on the island, has induced the masters of vessels to pay more attention to the health and cleanliness of their passengers, in the hope of avoiding the detention which used to be required in all cases. It operates as a premium to care and attention on the part of the captain, and has had a salutary effect on the comfort of the emigrants. It has also obviated the great former inconvenience to the merchants of Quebec, of having their vessels detained when clean and healthy. This, therefore, is a considerable improvement ; but the state of the vessels generally for the year 1837 was, nevertheless, very far from what it might be with a good system of inspection and arrangement at home ; for instance, 597 cases of typhus and small-pox were sent to hospital, the greater part of which, as I have said before, were owing to bad management. I also wish to remark, in corroboration of Mr. Jessopp's statement, that, down to the present time, lists and descriptions of emigrants required by the Imperial Act to be certified by the customs' officer at the port of departure are seldom correct, either as to name, description, or number of passengers ; so much so, that it is often difficult for me to find out whether any deficiency of numbers has been occasioned by death or otherwise. These falsifications are, first, for the purpose of evading the emigrant tax, which is levied in proportion to age, and the common fraud is to understate the age ; and, secondly, for the purpose of carrying more passengers than the law allows, by counting

grown persons as children, of which last, the law allows a larger proportion to tonnage than of grown persons.

Is this fraud general ?—Yes, very common ; of frequent occurrence ; and it arises manifestly from want of inspection at home.

Have you had any means of learning the degree of inspection that takes place at home ?—If there is not one passenger to every five tons, no inspection takes place, and captains have in many instances told me that the agents only mustered the passengers on deck, inquired into the quantity of provisions, and in some cases required them to be produced, when occasionally the same bag of meal or other provisions was shown as belonging to several persons in succession. This the captain discovered after sailing. The mere mustering the passengers on deck, without going below where the provisions are kept, is really no inspection at all ; and it frequently happens that passengers are smuggled on board without any provisions. There is another evil which might be readily obviated by a proper selection of vessels at home ; that of employing as emigrant ships vessels which are scarcely seaworthy, and which consequently, being unable to carry sail, make very long passages. As the tonnage of the best class of vessels coming to Canada is far more than sufficient to bring all the emigrants in any year, the employment of these bad ships ought not to be permitted.

Have any remedies for existing evils occurred to you ?—I can only agree with Mr. Jessopp and others with respect to a special board of emigration at home, having no other occupation than that of superintending the selection and passage of emigrants, with responsible agents at the various ports of departure, who should be obliged to inspect all vessels bringing passengers, whether they have few or many on board ; for, according to the Emigrant Act, a large vessel may bring out one hundred passengers and no inspection is required or made. Were the clause No. 20 of the Passengers' Act left out, and the Act otherwise enforced at home, the state of the emigrants on ship-board would be much ameliorated. The present system at Grosse Isle works well, and really accomplishes its objects, of preventing the introduction of contagious diseases into the province without unnecessary detention of the vessels. With respect to the care of emigrants after their arrival at Quebec, I offer no opinion.

Charles Poole, M.D.

Inspecting Physician, Quarantine Station, Grosse Isle.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 22 October 1838.

My Lord,

In consequence of information which I have received, of the present state of the Magdalen Islands in the Gulf of St. Lawrence, which nominally form a portion of this province, but are in reality under no government whatever, I requested Sir Charles Fitzroy to inspect and report to me their condition.

I have the honour to enclose your Lordship his Excellency's communication on the subject, and to express my entire concurrence in the suggestion with which it concludes.

I have, &c.

(signed) *Durham.*

(Enclosures.)

Government House, Prince Edward Island, 20 September 1838.

My Lord,

In compliance with your Lordship's desire that I should visit the Magdalen Islands, and report to your Lordship the state in which I found them; I have the honour to inform your Lordship, that as soon as possible after my return to this government I availed myself of the opportunity afforded by Her Majesty's ship "Pearl" arriving on this station, to fulfil your Lordship's wishes: and having just returned, I beg to communicate the result of my observations.

From the information I obtained from several of the most respectable inhabitants, it would appear that these islands contain a resident population of about 1,600 souls, whose principal occupation is fishing. They also pursue a very imperfect system of agriculture, although the soil appears capable of advantageous cultivation. As it is, a sufficient quantity of barley, oats, and potatoes is raised for their consumption; and they also breed a considerable number of horses, horned cattle, and sheep. The population has increased rapidly within the last few years.

These islands are the principal resort of the American fishermen, and the French from the islands of St. Pierre and Miquelon, and although nominally under the government of Lower Canada, they have been left for some years entirely to themselves, without magistrate or public officer of any description; in consequence of which, no law is required by the inhabitants, or the thousands of Americans and others who swarm in the Gulf of St. Lawrence and in the harbours of the

islands during the fishing season, except, as was observed to me, the law of "*le plus fort.*" The depredations committed by these strangers were loudly complained of, as was also the utter absence of any means to enable creditors to recover their just debts, and the advantage taken of their unprotected state by the Americans and French.

I ascertained the imports by the regular traders to amount to 10,000*l.* annually, independent of flour, tea, tobacco, sugar, and rum, to an equal or larger amount, all of which are exclusively supplied illicitly by the Americans, on terms with which the fair trader cannot compete, and which is naturally complained of as a grievance, but which there is at present no means of preventing.

The resources of the islands are considerable, and, if placed under proper control and management, might be greatly increased. They at present consist of fish, skins, and oil, the exports of which articles are equal in value to the imports.

The inhabitants, who are chiefly French, from Guernsey and Jersey, appear to be a peaceable well-disposed people; and they expressed themselves to be extremely desirous of being placed under the government of the nearest colony, in order to have the protection of the laws; of which, from their distance from Quebec, they are now deprived. Under these circumstances, I would suggest to your Lordship the propriety of annexing these islands to this government, to which, from their geographical position, they so closely approximate; and in the event of your Lordship approving of this suggestion, I beg to transmit a report which I have received from the collector of customs here, of his opinion of the most effectual method of collecting a revenue from them.

I have, &c.

(signed) *Chas. A. Fitzroy.*

His Excellency the Earl of Durham, G.C.B.
&c. &c. &c.

Custom-house, Prince Edward Island, 19 September 1838.

Sir,

In accordance with your Excellency's desire that I should submit for your information my opinion as to the most effectual method of collecting a revenue at the Magdalen Islands, in the event of their annexation to your Excellency's government,

I would respectfully state that it will be necessary, in the first instance, to procure the appointment of a sub-collector, at a port where the principal business of the islands is transacted; but as I apprehend that the advantage of the imperial revenue from such an appointment would be very trifling, I think that the honourable board of customs would object to such an office, unless placed on a footing similar to the sub-collectors now doing duty at the out-bays in this island; viz., that on a provision being made from colonial funds for the remuneration of the office, the honourable board would appoint any competent person who may be recommended by your Excellency; at the same time it cannot but be evident to your Excellency, that unless the revenue officer be supported by sufficient assistance to enable him effectually to enforce his orders, in contact with the lawless foreign fishermen and contrabandists who frequent those shores, the appointment would be altogether futile; I should therefore suggest that a boat, with a crew of not less than eight well-armed men, be placed at the sub-collector's command; the boat and men might be supplied by any of Her Majesty's cruisers on the station at the opening of the navigation, and reclaimed at as late a period as possible previous to her leaving the island in the autumn.

On the annexation of those islands to your Excellency's government, I should suppose that the inhabitants would be amenable to the colonial laws now in force in Prince Edward Island; if so, and taking the imports of the Magdalens at 10,000*l.* annually, the sum of 500*l.* would at once accrue from an *ad valorem* tax of 5*l.* per cent., which is now levied on dry goods imported into this colony; but I apprehend that this sum would be increased in the ratio of from 50 to 100 per cent. by the strict enforcement of the revenue laws, as from the best information at my command I believe that tea, tobacco, and spirituous liquors (which are all liable to heavy colonial duty) are supplied to the inhabitants almost entirely by American and French contraband traders.

Should there be any doubt in the opinion of the law officers whether the annexation of the Magdalen Islands to your Excellency's government would confer on the inhabitants the benefit of our laws, the next session will enable the colonial legislature to place the matter beyond dispute; at the same time, if considered expedient, a short code of revenue laws may be enacted, applicable to the present peculiar state of those islands.

I would further suggest the propriety of levying anchorage dues on all foreign vessels resorting to the ports of the Magdalens, suppose at the rate of four dollars on vessels under 100

tons burthen, six dollars on vessels exceeding 100 tons and under 200 tons burthen, and eight dollars on vessels of the burthen of 200 tons and upwards; the proceeds of such a tax would, in a great degree, if not altogether, cover the expense of the preventive service, and have the further good effect of preventing the intrusion of foreigners, unless in cases of absolute necessary.

I have, &c.

(signed) *Geo. Richd. Goodman*, Collector.

His Excellency Sir Chas. A. Fitzroy,
&c. &c. &c.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 26 October 1838.

My Lord,

I have the honour to acknowledge the receipt of your Lordship's despatch dated August the 21st, in which you desire me to furnish you with a Return of the names of persons who have been convicted in Lower Canada of treason, misprision of treason, or felony, since the 1st of October 1837; the value of the personal property; the number of acres of real estate; the value of the houses, buildings, and lands, if any, belonging to such persons, forfeited to the Crown; the grants and sales, if any, of such forfeited property and estates; the names of the purchasers and grantees of such property and estates; and the value of the personal and real estates so forfeited retained by the Crown; and the amount or value of real or personal estate, if any, that has been granted by the Crown to the widows, children, and relatives of such persons; and the names of such grantees.

In compliance with your Lordship's request, I have the honour to inform you, that in the Province of Lower Canada, since the 1st of October 1837, no person whatever has been convicted of treason, misprision of treason, or felony, of a political nature; and that, in consequence, no property has been confiscated to the Crown.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 30 October 1838.

My Lord,

Among the points to which my attention has been directed, as affecting the continued tranquillity of the province of Lower Canada, and especially of that portion of it in which the British population chiefly reside, the position of the "squatters," as they are termed, that is, persons who have settled upon the waste lands of the Crown without any title, is one which has appeared to me to demand some immediate proceeding. The number of such persons is, I am informed, considerable. Many of them have been settled for several years upon the land which they occupy, and have made large improvements; and the uncertainty of their tenure, which exposes them to ruin at any moment, at the mere pleasure of the Crown or its officers, forms a perilous addition to whatever sources of discontent may exist among the population of the district in which they reside.

It is not needful that I should, at present, enter upon any inquiry as to the general policy which Her Majesty's Government should pursue with regard to individuals of this class. This is a question which will be fully considered in the report I shall have the honour to lay before Her Majesty on the subject of the disposal of the waste lands, the property of the Crown, in these colonies. The case of these individuals is exceptional to that of squatters in general, and appears to require the adoption of an exceptional measure. They belong neither to that portion of the inhabitants of new countries who are the pioneers of civilization, but who never subject themselves to the restraints of society, who, so soon as settlement has reached their vicinity, sell off their improvements and plunge again into the wilderness; nor are they to be counted among those who only seek to avail themselves, without purchase, of the exuberant fertility of a virgin soil, and when this is exhausted, commence clearing in some other spot without ever making any such improvements as enhance the value of the land they occupy. These men on the contrary are squatters, simply in the sense of occupying land without a title, and they have done this, in most cases, not because they were unwilling or unable to pay for the land, but because the legal acquisition of land upon any terms was practically beyond their power.

It may in fact be stated as a characteristic of the system which has been pursued in the disposal of the waste lands of the Crown in this province, that there was no one by whom

land might not be more readily obtained than by the person who desired it for the purpose of actual settlement. Such persons were generally poor and uninfluential, and would probably experience considerable difficulty in obtaining a grant at all; and besides this, there were obstacles presented by the situation of the district within which settlements were chiefly made, and by the policy of government, which few of them had ability to surmount. The business of the land-granting department was transacted entirely at Quebec, and any person residing in the townships, who might wish to obtain a grant of land, was compelled to take a journey to that town, a distance of from 90 to 150 miles, and either reside there until his grant or location ticket could be procured, a period probably of many weeks or even months, or repeat his journey from time to time at an expense manifold greater than the value of the lot he sought to obtain. And when to this certain expense was added the uncertainty of success in his application, it can excite no surprise that an individual desirous of establishing himself should have resolved rather to incur the risk of an unauthorized occupation of the first favourable situation he could discover, than to encounter the delay, expense, and hazard of an application for a grant at the seat of government.

These squatters, too, are not merely entitled to the favourable consideration of government upon these grounds, but they are almost the only persons who have ever done any thing to give them a claim to the land they seek to acquire. The individuals to whom, with such wanton profusion, the waste lands of the Crown have been granted, had done nothing previously to entitle them to a grant, and, though their grants were made subject to conditions which were intended to advance the settlement of the country, yet these conditions were seldom, even practically, and never strictly, performed. This alienation of Crown property has retarded most lamentably the progress of settlement, and has kept the fairest portion of the province a wilderness up to the present time. The settlement which such persons were bound but neglected to perform, these squatters have actually made; and though I do not conceive that it would be politic on the part of Her Majesty's Government to give any encouragement to squatters for the future, it appears to me both just and expedient, under the peculiar circumstances which I have described, to secure to these individuals the fruits of their labours, and thus to remove the unhappiness and discontent which the uncertainty of their present position naturally produces.

I have therefore issued a proclamation, a copy of which I have the honour to enclose, securing to all persons, who have established themselves without a title as *bonâ fide* settlers upon the waste lands of the Crown prior to the 10th September last, an absolute right of pre-emption at the upset or fixed price of wild lands the property of the Crown in their neighbourhood, under such limitations and conditions as appear necessary to prevent any from benefiting by the proclamation, with the exception of those who, under the circumstances I have described, are entitled to the indulgence.

I have, &c.

(signed) *Durham.*

(Enclosure.)

By his Excellency the Right Honourable John George Earl of Durham, Viscount Lambton, &c. &c. &c.

A PROCLAMATION.

Whereas it hath been represented to us, that in various parts of the province of Lower Canada, many persons have actually settled upon, and improved and cultivated, waste lands, the property of the Crown, without having obtained any grant of such land, or any license to occupy the same; and such persons are therefore liable, at the pleasure of the Crown, to be dispossessed of the land they thus occupy, without any compensation for the improvements they may have effected:

And whereas the acquisition of Crown lands within the province of Lower Canada, either by grant or purchase, has, in respect of persons of little property or influence, been subject to numerous obstacles and harassing delays, so that it has been always difficult and often impossible for such persons to obtain possession of Crown lands, upon which they might settle themselves, except by an occupation without any title: And whereas a great number of the persons who have in such manner settled upon the waste lands, the property of the Crown, without title, are most desirous of being admitted to purchase the land, and the uncertainty at present attending their future possession thereof is productive of uneasiness and discontent: And whereas, under the circumstances aforesaid, it appears highly expedient and not less just to put an end to all anxiety and dissatisfaction arising from this uncertainty of future possession of the lands which they have improved on

the part of such persons as have settled thereon without title, and are now willing to become purchasers of the same: Therefore I do hereby certify and declare, that in any and every case in which any person shall have actually settled upon, improved, and cultivated any waste lands, the property of the Crown, in the province of Lower Canada, previously to the tenth day of September last, such person being an actual and *bonâ fide* settler, or his legal personal representative, shall have an absolute right of pre-emption in respect of the lot whereupon he has so settled, and which he has so cultivated and improved, either at the upset or fixed price of wild land, the property of the Crown, in the neighbourhood of such lot, without being required to pay any additional price for the improvements effected upon the same, and without being exposed to the competition of other purchasers: Provided always that no such person shall, under any circumstance, be entitled to the pre-emption of more than one lot of 200 acres; and that no one shall be considered as so entitled unless he shall have actually cleared and cultivated, in the whole, ten acres of land, and shall prove, to the satisfaction of the agent for the sale of the waste lands of the Crown in the district wherein the lands are situate, that he was an actual settler upon, and commenced the improvement of the lot in respect of which he may claim a right of pre-emption before such tenth day of September last; and provided further, that every such claim to pre-emption, and all necessary vouchers and certificates for the authentication thereof, shall be lodged with the agent for the sale of Crown lands aforesaid within six months after the fixed or upset price of lands in the district shall have been determined upon and fully certified.

Given under my hand, &c., 31 October 1838.

EXTRACT of a DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 30 October 1838.

It will be my duty, on my arrival in England, to call your Lordship's attention to a subject affecting the comfort and contentment of the soldiers serving in North America. I allude to the stoppage of a portion of their pay for the purpose of providing extra necessaries and clothing required for this severe climate.

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 30 Oct. 1838.

My Lord,

I have had the honour to receive your Lordship's despatch of the 29th of August last enclosing copies of a further correspondence which had passed between the Colonial-office and the British American Land Company, relative to the application to promote emigration to their lands of that moiety of their purchase-money which has heretofore been applied to services connected with the general government of Lower Canada. To derive from the land of these colonies a fund which shall furnish the means at once of improving and of settling it, will be one of the main objects contemplated in any plan which I may have the honour to recommend, for the future disposal of the waste lands, the property of the Crown, in these colonies. I, therefore, approve of the general principle which the British American Land Company desire should be acted upon in the present case; but no advantage appears likely to result either to the colony or to the company, from any small exceptional measure such as this would be, not merely unsupported, but positively counteracted by the course pursued by Government in other respects, and I cannot, therefore, advise a compliance with their request. I trust, however, that within a very short period the adoption of some comprehensive measures on the subject may render it expedient and safe to accede to the present application.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Castle of St. Lewis, Quebec, 1 Nov. 1838.

My Lord,

I have the honour to inform you that I propose embarking this day on board Her Majesty's frigate Inconstant, and shall proceed direct to Plymouth.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Her Majesty's Ship "Inconstant," at Sea, 10 November 1838.

My Lord,

I have the honour to inform your Lordship that I had, on the morning of my departure from Quebec, an interview with Mr. Sheriff M'Donnell, who had arrived the night before from Kingston, Upper Canada, for the purpose of communicating to the government the alarming intelligence of the existence of a great unwillingness on the part of the militia and volunteers of Upper Canada to tender their active services.

Mr. M'Donnell informed me that the belief amongst them, of the indifference of the British Government to their fate was so general, that they deemed it useless to make any exertions to maintain the connection with the mother country. He also said that nothing but a declaration from me, of the intentions of the British Government having been misunderstood, would induce them to enrol themselves for the defence of the province this winter. I had no hesitation in assuring him that no trace of that indifference would be found in the measures adopted, or the precautions taken by the government over which I presided, and that I could not imagine the existence of a different feeling in the minds of the British Ministers. I trusted, therefore, that the same alacrity as was before manifested would be evinced by all classes in the Upper province, in coming forward for the maintenance of the public security.

Mr. M'Donnell stated himself to be perfectly satisfied with my declaration, and was to return to Kingston the same evening.

I regret to state, with reference to this subject, that the feelings expressed by Mr. M'Donnell are also very generally entertained by the British population in Lower Canada.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Her Majesty's Ship "Inconstant," at Sea, 10 November 1838.

My Lord,

I have the honour to enclose your Lordship a memorandum of the arrangements which have been made for the distribu-

tion of the regular and volunteer forces in the two Canadas, and which will provide for their defence to the utmost extent of the means placed at the disposal of the government.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

London, 8 December 1838.

My Lord,

On my arrival in town yesterday, I received the duplicates of your Lordship's despatches of the 26th of October, and 12th and 15th of November.

Referring to your Lordship's despatch, 15th November, I feel that I ought not to delay one moment in transmitting to your Lordship my formal resignation of the offices of Governor-general of British America and Her Majesty's High Commissioner, and I have to request that your Lordship will lay it officially before Her Majesty.

I have the honour, at the same time, to inform your Lordship, that the presentation to you of the full and comprehensive report of the proceedings of my mission, together with the voluminous evidence attached to it, which I have prepared, according to my pledge, must necessarily be delayed until the return to England of the gentlemen connected with my administration; they were to leave America about the 20th ult., and may therefore be expected in a few days.

I have, &c.

(signed) *Durham.*

DESPATCH from the Earl of Durham to Lord Glenelg.

Cleveland Row, 20 December 1838.

My Lord,

I have delayed answering that part of your Lordship's letter of the 10th instant, which relates to the report of the proceedings of my mission, having been in daily expectation of the arrival of Mr. Buller, whose presence is necessary to its completion.

As shortly as possible after his arrival it shall be presented, and I trust that you will find in it all the information which

you can require, in order to enable you to form a correct opinion as to the state of the North American provinces.

In the mean time, should you be of opinion that I can furnish you with any details or suggestions immediately necessary for the advantage of Her Majesty's service, I shall be ready to do so.

I am, &c.

(signed) *Durham.*

CHARLES WOOD, PRINTER,
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